

THE INFLEXIBILITY TRAP

FRUSTRATED SOCIETIES, WEAK STATES AND DEMOCRACY

The State of Democracy in the Balkans

**Centre for Liberal Strategies
Institute for Market Economics**

With the support of
The National Endowment for Democracy
Supporting Freedom Around the World

THE INFLEXIBILITY TRAP

FRUSTRATED SOCIETIES, WEAK STATES AND DEMOCRACY

ISBN 954-9671-06-2

Copyright © CLS and IME

First edition, January 2003

Printed by DATA Agency - Sofia, Bulgaria

Tel.: (+359 2) 920 0057

E-mail: data@netbg.com

Cover design by DATA Agency

TABLE OF CONTENTS

1. PREFACE	4
2. THE INFLEXIBILITY TRAP. FRUSTRATED SOCIETIES, WEAK STATES AND DEMOCRACY	6
3. BALKAN POLITICAL ECONOMY: CRISIS, POLICY AND BUSINESS	31
4. BALKAN CONSTITUTION MAKING IS THERE A PECULIARITY AND WHAT IS TO BE EXPECTED?	61
5. COUNTRY REPORTS ON THE STATE FOR DEMOCRACY ALBANIA: ALBANIA - A WEAK DEMOCRACY A WEAK STATE	115
6. BULGARIA: COUNTRY REPORT ON THE STATE FOR DEMOCRACY AND A ROADMAP FOR REFORM	169
7. KOSOVA: COUNTRY REPORT ON THE STATE FOR DEMOCRACY AND A ROADMAP FOR REFORM	187
8. MACEDONIA: COUNTRY REPORT ON THE STATE FOR DEMOCRACY AND A ROADMAP FOR REFORM	198
9. MONTENEGRO: COUNTRY REPORT ON THE STATE FOR DEMOCRACY AND A ROADMAP FOR REFORM	234
10.SERBIA: COUNTRY REPORT ON THE STATE FOR DEMOCRACY AND A ROADMAP FOR REFORM	272
11.THINK TANKS INVOLVED IN THE PROJECT BASIC INFORMATION	301

PREFACE

The Inflexibility Trap

Frustrated Societies, Weak States and Democracy

Have the former *welfare* states of Southeast Europe turned into *farewell* states? With state organs rapidly losing public trust and unable to deliver on promises of prosperity, the question of citizens' participation in politics was the major theme of an international project entitled *Developing a Long Term Strategy for Democratization in the Balkans*. The project, inspired and financed by the National Endowment for Democracy (NED), heralded a unique opportunity to debate the growing risks and challenges identified by independent analysts from the region.

The West has been funding democracy building in the Balkans for the past decade and yet the region has not been fully secured and stabilized. Kosovo is an international protectorate; Montenegro is an unwilling member of a non-functioning federation; Serbia is in the early stage of political and economic reforms; Macedonia is in the process of self-reinvention; Albania is a version of contested democracy; and Bulgaria is in the midst of its negotiations for joining the European Union (EU).

Democracy is fragile in Southeast Europe with each state facing obstacles in the transition period during the past decade. To address these issues, the National Endowment for Democracy commissioned a report on the state of democracy by eight Southeast Europe's major non-governmental policy institutes. The think tanks involved in the project are: the Centre for Liberal Strategies (Bulgaria); the Institute for Market Economics (Bulgaria); the Albanian Institute for International Studies (Albania); the Institute for Regional and International Studies (Bulgaria); the Belgrade Center for Human Rights (Serbia); the Center for Democracy and Human Rights (Montenegro); the Forum Institute (Macedonia); and Kosova Action for Civic Initiatives (Kosovo).

The report exposes some serious problems with the current international approach and outlines some new proposals for enhancing regional stability and democracy building. It emphasizes that democratization in the Balkans must become responsive not only to international conditionalities, but also to the views of local constituencies. The elites and the public are drifting too far apart, allowing for the emergence of irresponsible democracies and corrupt political systems. The near total collapse of the middle class is

worrisome and their political alienation even more so. The ruling parties are acquiring the perception of being “the puppets” of the West, which is further delegitimizing their political programs, making a transition to stable states even more difficult. Accordingly, the goal of the international community should be to narrow the alarming gap between the political elites and the public and to support the development of responsible democracies.

THE INFLEXIBILITY TRAP

FRUSTRATED SOCIETIES, WEAK STATES AND DEMOCRACY

Ivan Krastev, Director of the Centre for Liberal Strategies

Elections do not change things. If elections were about changing things, they would have been banned.

Graffito found in Sofia

Conceptualizing the current state of politics on the Balkans is like designing a mousetrap without knowing what a mouse is. In the political maps, the region looks like an explosive mixture of weak states, non-state states and present and future protectorates. In history books, the Balkans stand for delayed modernization and incomplete state-building processes. In policy reports, the region is described as a place where borders (when defined) are soft, identities are hard, reform policies have failed, and the future is unclear. What we do not know is how many de facto states function in South East Europe, and to what extent they function. What we know is that they are all democracies. The Kosovo parliamentary elections on November 17 marked the stage at which all countries and entities in the region gained their representative assemblies. A decade ago the problem of the region was the prevalence of non-democratic states. Now, the problem is that we have more democracies than sovereign states, and less political change than we hoped for.

The present Report argues the need for a basic re-thinking of the analytical framework for evaluating the chances and risks for a working democracy in the Balkans.

The contradictory trends and developments make the reading of democracy's balance-sheet an uneasy task. On the positive side, the

major political actors in the region do not question democracy as the only legitimate and desirable form of government. Publics are disappointed with the status quo, but they are not attracted by non-democratic alternatives. The military is in the barracks; Milosevic is in The Hague; elections are regular. In comparison with Central Asian republics, SEE shows constant progress in democratization.

On the negative side, there is a justified fear that Balkan democracies as a whole are more fragile than we had suspected. Trust in democratic institutions is dramatically low, with Parliaments rarely getting more than a 20 percent approval, growing anti-party sentiments, undermined confidence in politicians and ever fewer people going to the ballot-box.¹ The latest presidential and parliamentary elections in Bulgaria and Romania indicated a high volatility in voters' preferences. The intellectual climate has deteriorated. Anti-liberal and anti-western ideas are growing in influence. The reformist agenda of the elites is no longer the agenda of the publics.

The latest public opinion poll conducted in Bulgaria, a country defined by Freedom House as a consolidated democracy, shows that according to the public the last 12 years have been a wasted time. Compared with 1989, 50 percent of respondents claim that the situation has worsened, 33 percent claim that it has not changed, and only 17 percent see improvement. 62 percent of Bulgarians would prefer to live in a different age. The figures from Macedonia are even more frightening. Asked whether they consider that in general Macedonia is moving in the right direction, 62 percent of the citizens of that Republic say no and only 12 percent approve of the direction that is being taken.

The apparent gap between citizens' perception of the status quo and the perception of the international community promoting democracy is at the heart of the present report. It is based on the contributions prepared by local think tanks in Albania, Bulgaria, Macedonia, Montenegro, Kosovo and Serbia and tries to reflect on the chances and risks for democracy in the Balkans. The report is neither a summary of country reports, nor an exhaustive study of the performance of different democratic institutions. Its goal is to construct an analytical framework that will enable us to identify some of the invisible or neglected risks and dangerous trends in the region. It is no secret that governments and societies in SEE are facing grave problems, but the question is: In what terms should we analyze the current mistrust in

¹ The approval of the Macedonian Parliament in December 2001 was 6.9 percent.

the performance of democratic institutions and new political elites in order to overcome it? **In our view, it is more useful to analyze the problems in terms of a crisis of democracy than in terms of unfinished democratization.**

In democratic politics perceptions are the only reality that matters, hence our framework is focused on citizens' perceptions. This perspective generates a re-thinking of the dominant paradigms governing the analyses of the political process in the region. The way people perceive the present condition determines how they vote, how much they save, and if they are ready to live together. In such an analytical framework the notion of transition is not a useful one. Most people in the Balkans are convinced that they live in imperfect democracies, but nonetheless in democracies. They judge the advantages of democratic regimes not on the basis of the ideal type of democracy constructed by a political scientist, but on that of their own democratic experience. It is naïve to believe that their disappointment with the status quo will not affect their trust in the democratic system itself. What is "transition" for the expert is their life for the people.

The last decade established a pattern of viewing the Balkans from the perspective of the most endangered country. In 1993 it was Bosnia that shaped the picture of the region. In the last two years the Balkans were viewed through the lens of the dramatic developments in Kosovo and Belgrade. Recently, Macedonia has become the paradigm maker. Indeed, the media headlines dictate the analytical perspective and this intellectual dominance of the "emergency" has its analytical price. Analyses produced in the past ten years read like natural disaster reports. They argue for sanctions or aid but fall short of understanding the logic of policy failures.

In this report, we read the chances and challenges for sustainable democracy in the region through the prism of the democratically most developed Balkan country - Bulgaria. The logic of our analysis is that it is more the democratic fragility of successful Bulgaria than the democratic deficits of some of the other countries that represents the gravest challenge facing the Balkan democracies in the medium and long term. Bosnia in 1993, Kosovo in 1999, and Macedonia in 2001 all are extreme cases, worst-case scenarios that have materialized. Bulgaria, on the other hand, is viewed by many as the model not for what Balkan democracy should be, but a model of what Balkan democracy could be. It is the dangers of this model that we will try to illuminate.

This analytical framework centered on Bulgaria will not only open room for a typology of the problems, it will also be instructive with respect to the limits of democratic consolidation in the region. Bulgaria's unexpected political developments in 2001 are the other reason for adopting the current framework. In the last six months Bulgarian citizens voted out the most praised reformist government in the region (the one led by Ivan Kostov) and elected a government headed by the ex-king Simeon Saxe-Coburg-Gotha. The king's movement took 50 percent of the seats in Parliament. In light of the fact that the movement was constituted just three months prior to the elections, its performance can be justifiably described as an electoral revolution (or an epidemic). The king's movement did not simply sweep the major political parties - the UDF and the Socialists - aside. It also carried the majority in every single age group, education group, and income group and in 28 out of 31 regions in the country. Then, three months after the king's landslide victory in the parliamentary elections, the majority of Bulgarian citizens voted against the most praised reformist president in the region, despite the fact that President Stoyanov was endorsed not only by the UDF but also by the king's movement and several other democratic parties. The voters' choice for president was the leader of the socialist party, Georgi Parvanov, who just a month before had been considered unelectable. The exotics of the Bulgarian experience should not make us blind to the trend that was already visible in the Balkans with the parliamentary and presidential elections in Romania: there is consistently a protest vote. The same trend is noticeable in the opinion polls of other studied countries. **The question is, will the protest vote run the Balkans? Are we observing a shift towards "delegative democracy" as experienced in Latin America? What kind of parties, persons, and ideas will be the future incarnations of this protest vote? Why do the so-called "reformists" spectacularly lose elections? Is this going to be the fate of the present Serbian government? What are the roots of public disappointment? Was democracy weakened or strengthened by the explosions of political volatility?**

This report moves away from the beloved normative question of the democratization paradigm: how free and fair are elections, how free and independent are the media or judiciary, how effective is the rule of law. It moves away from measuring and ranking democracies and from imposing the logic of democratization on the political developments in the Balkans. A democratization framework allows one to compare achievements, but it rules out a comparison of

experiences. The question we try to answer is **what is happening politically in the Balkans and what can we expect to happen?** We fear that the dominant paradigms are misrepresenting the problems of the region and that we risk missing the challenges South East Europe faces. The dominant paradigms consciously or unconsciously are “normalizing” the status quo. The current report tries to go beyond this type of normalization.

The generalization of the problems of the six “democracies” that we analyze is also a risk itself. Albania, Bulgaria, Macedonia, Montenegro, Kosovo and Serbia differ significantly. Kosovo is an international protectorate; Montenegro is an unwilling member of a non-functioning federation; Serbia is in the early stage of political and economic reforms; Macedonia is in the process of self-reinvention, Albania is a version of a contested democracy, and Bulgaria is in the midst of its negotiations for joining the EU. The political process in Montenegro and Kosovo is primarily centered on the problems of independent statehood while social and economic issues dominate the political process in Bulgaria and Albania. Indeed, the diversity does not stop here. For the last 12 years there has been no real transfer of power in Montenegro, while Bulgaria has completed two cycles of transfer of power from left to right and vice versa. The communist legacies of the analyzed countries also differ substantially. For instance, the closed type of Stalinist society in Albania between 1945 and 1989 was radically different from the form of liberal communism enjoyed in Yugoslavia in the same period. The experience of the last decade also has not brought the countries together. It was more the dissolution of Yugoslavia than the end of communism that shaped the agenda in the ex-Yugoslav states and societies. The experience of violence that is common for Serbia, Albania and Macedonia is unknown to the Bulgarians.

Diversity is evident, but some common patterns and tendencies can also be clearly identified. An attempt to grasp these common trends forms the skeleton of this report. All the countries included in the study share a dramatic decline in the standard of living. None of the studied countries, with the exception of Albania, has returned to its 1989 GDP level. In most of them, de-industrialized economies co-exist with a social structure characteristic more or less of advanced industrial societies. All these societies have witnessed a rise in social inequality. All of them suffer from the absence of a durable democratic tradition.

All of them share a profound sense of insecurity. All of them /with the exceptions of the Albanians/ are pessimistic with respect to the near future. All of them see membership of the EU as their most desirable future. It might be questionable to treat all these diverse countries in one and the same group, but politically they are treated like that. In many cases the most practical definition of “a mouse” is “a small animal that can be caught in a mousetrap.”

How Not to Think about the Balkans

Shifting away from the dominant paradigms does not mean invalidating their findings. Each of them has its validity and usefulness, but none of them helps us to understand what is happening politically in the Balkans today because none of them is focused on the internal logic of recent developments.

The decision not to think exclusively in terms of ethnicity, transition and European integration is what outlines the perspective of the present Report. Determined to make explicit the internal dynamics of political instability in the Balkans, we suggest i) a critical reflection on the three paradigms that are shaping the outsider's perception of the region, ii) a map of the security, and social conditions, iii) an analysis of the political status quo seen as the interplay between the politics of corruption and the politics of external constraints, iv) a conceptualization of the state weakness in the Balkans today.

The Legacies Paradigm

The bad legacies paradigm was very popular in the earlier stages of the dissolution of Yugoslavia and was rooted in historical and cultural arguments. The report of the international commission on the Balkans (The Unfinished Peace) published in 1996 is a classic example of this analytical approach. It defined the major obstacles for effective democracy in the Balkans as “legacies of war, of communism, and of history”. Giving its recommendations, the Report focused on “the development and revival of civil society”, regional and inter-ethnic projects, re-writing the history textbooks in the region, and so on. The freedom of the media was defined as a key element in promoting democracy in the Balkans. But “freedom of media” was basically reduced to freedom from governmental intervention. Political danger

of special interests controlled media remained unnoticed.

The Unfinished Peace and the paradigm it embodies have influenced most of the international democracy aid programs. The unspoken assumption of this paradigm was that the political problem in the Balkans was primarily ethno-political. The status of minorities became the leading indicator for democratic achievements and the NGO community was selected as a favorite partner for democracy building projects. It was this ethnic- tolerance centered perspective that contributed to the unrealistic assessment of the situation in Macedonia before September 2000. This approach did not succeed in separating “post-Yugoslav” problems from the problems of post-communism.

In the context of this paradigm violent nationalism was perceived as the most prominent threat to the democratic process and political parties and individual politicians were judged primarily on the basis of their nationalistic or anti-nationalistic record. This explains why the liberal elements of the former communist elite easily achieved favor with the international community. Politics was reduced to a clash between nationalists and non-nationalists.

This does not mean that ethnic tensions and ethnic identities have not played a critical role in shaping the political reality of the region. However, quite often the “only ethnicity paradigm” takes the justification and legitimization of certain political decisions as the essence of Balkan politics. To an extent this paradigm is already unfashionable, but it is still used with respect to Serbia and to some extent Macedonia. It is no longer influential with policy circles, but it still dominates the international media coverage of the region. This paradigm is also blind to the changes in the nationalistic platforms themselves. If a new wave of nationalism threatens the region, it will be much more anti-Western populism or anti-Roma xenophobia than the 19th century type of nationalism that was characteristic of the dissolution of Yugoslavia.

The Democratic Transition Paradigm

In his subtle criticism of the transition paradigm Thomas Carothers singles out its five core assumptions: 1) any country moving away from dictatorial rule can be considered a country in transition to democracy 2) democratization tends to unfold in three obligatory stages - from opening to breakthrough to consolidation 3) a belief in the

determinative importance of elections 4) a belief that at the end of the day “structural factors” - economic level, political history, institutional environment - are not so important 5) a belief that a functioning state is always there and that state-building and democracy-building enforce each other.

In our understanding, the controversial aspect of “transition” is its normative character and teleological nature. All new democracies are supposed to follow one and the same path. Democracy is analyzed not so much through the relations between leaders and led, but judged by the level of its institutionalization. In its radical form, the transition paradigm can be visualized as a global democracy promotion office where all new democracies fill in their forms and expect to be judged on the basis of how free and fair are their elections, how independent is their judiciary, how free are their media and so on. Freedom House’s “Nations in Transit” Report is a classic example of this paradigm. Ranking democracies has replaced understanding them as the practice in the democracy-promotion community.

The attractiveness of this approach for policy makers is two-folded. On the one hand, the transition paradigm creates a comprehensive framework for comparing the achievements of different transitional countries; on the other hand, the “scores” and “democracy rankings” are the basis for the assessment of democracy used by the international institutions, and individual Western governments. The theorists’ dream of hard data and regression analyses and the bureaucrats’ dreams of results that can be reported meet happily in the transition paradigm. However, such a measurement of democracy creates a false expectation with respect to the accountability of democracy-building programs.

As a result, the transition paradigm fails to understand the internal logic of the political processes in new democracies and it is frequently blind to the way citizens perceive their political regimes. The outcome is that citizens vote out governments praised and “ranked” by the West.

The assumption that a functioning state is given a priori and that state-building and democracy building reinforce each other turned out to be especially disadvantageous with respect to the Balkans. The risk of being non-contextual was clearly illustrated by the manner in which the problem of Kosovo independence was treated in the transition paradigm.

As of 1991, democratization has been viewed as the major instrument for bringing stability to the Balkans. In its initial stages the dissolution

of Yugoslavia was conceptualized as a specific manifestation of the general trend of the collapse of communist regimes. The Yugoslav wars were explained mainly through the undemocratic nature of the old political system and as a skillfully orchestrated strategy by the old communist elites to ensure their own survival. The orthodox policy line was that democratization would reduce ethnic tensions and that it was the only way to avoid the dismantling of the existing states. This explanation has some validity, but the lessons of the last decade demonstrate its limits.

The dissolution of Yugoslavia demonstrated that when a society has to choose between democratization and self-determination, the latter comes first. The expectations that democratic change in Belgrade would eliminate the independence of Kosovo from the agenda of Kosovars turned out to be unrealistic. History demonstrated that for Kosovars, democracy is important. However, only within the borders of their own state, that had to be established first. Political change in Croatia is the other powerful example that successful democratization is possible only after state-consolidation has been achieved.

Another key misconception of the transition discourse is that the devolution of state power has been conceptualized as a victory for the emerging civil society. The state, in the early years of transition, was perceived as the major obstacle for the emancipation of society. The victory of democracy was understood in terms of the withdrawal of the state. It was in this analytical concept that the “NGO fashion” was born. But can the rise in the number of NGOs – most of them sponsored by the West – be identified with the rise and strengthening of civil society and democratic consolidation? Can civil society flourish in a place where there is no rule of law and a functioning state?

The transition paradigm is misleading not only because of its questioned assumptions. In the context of the fears that constructed it, the transition paradigm is shaped by the fear of a breakdown of democratic regimes, defined by Schmitter as “the sudden death of democracy.” “Transition” still thinks about democracy exclusively in its opposition to authoritarianism. But are the threats to democracy the same now as in the 1970s? What are the dangers for democracy at a time when democracy does not have open enemies, and undemocratic alternatives have retreated? It is not surprising that influenced by its “family connections,” the transition paradigm remained blind to the risks of a “slow death of democracy” – the erosion and de-legitimization of democratic regimes in the institutional framework of democracy

itself. This “slow death scenario” can be described as democracy without politics. It is this scenario of destroying the representative nature of democracy while keeping its institutional shell that constitutes the major risk that the Balkans face today.

The Development/Integration Paradigm

As a policy ideology for acting in the Balkans, the development paradigm is a latecomer. It resulted from the exhaustion of the legacy and transition approaches. Focused on some of the economic, institutional, and social pre-conditions for the success of democratic politics, the development paradigm discovered that the economy matters and incomes matter. Structural factors as the economic level and a favorable institutional environment were recognized as critical for securing public support for democracy. It was in this paradigm that “the state” was re-discovered as a pre-condition and not as a result of a functioning democracy and a functioning market. The World Bank’s “The Road to Stability and Prosperity in South-East Europe” strategy paper (published on March 1, 2000)² is the best illustration of this approach.

The Development/Integration paradigm is the most influential today, so it is important to figure out its hidden assumption for future political development in the region.

As in the transition paradigm, democracy is evaluated primarily according to the level of its institutionalization. The policy choices societies should make are radically de-politicised, so the problem is not in policy making but in policy implementation. Strengthening democratic institutions is perceived basically as the problem of capacity building, creating proper legal frameworks, and training an efficient bureaucracy. Development/Integration advocates are not interested in who the winners and losers are in the short run, because in the long run all are winners. All major political choices societies face are reduced to trivial technocratic choices. Introduction of hard policy constraints like Currency Boards or replacing local currencies by the Euro is favored by this approach. In its radical form, the EU integration paradigm views the political challenges in the Balkans in terms of state-building, but in terms of building a member-state. The institutional environment in the

² The World Bank had been tasked by the Stability Pact with establishing the regional policy strategy.

region is perceived exclusively in terms of its compatibility with EU norms and standards. The integration paradigm is the only long-term policy vision for the region and this explains its growing influence.

However, there are several hidden assumptions behind this paradigm that should be seriously discussed. The integration policy package starts with the assumption that one day all Balkan countries will be EU members, but does not pay enough attention to the period when those countries are still not members. Secondly, perceiving democratization as an adjustment to EU standards, this paradigm is basically suspicious towards any genuine political process in the region. And thirdly, this paradigm views the process of consensus-building much more as a result of the work of conditionalities, rather than as a result of a dialogue between different interest groups inside the studied countries. The manner in which the international community has imposed constitutional change in Macedonia is very instructive in this respect. On the one hand, this was a reasonable and necessary change. On the other hand, it was perceived as an imposing and contributed to public mistrust in Macedonian institutions and elites.

The democratic deficit that is considered as a negative side-effect of European integration for the member states has a much more profound effect on the candidate countries. The legislation process is deprived of its role as a channel for conflict-resolution and is reduced to translation and adoption of European legislation.

This analytical re-reading of the policy paradigms shaping the views of Balkan democracies leads to several conclusions. All three paradigms have their usefulness and validity, but they replace the question of what is happening in the region with a set of made answers. The legacy approach (in judging political development in the Balkans) is totally ethno-political in its perspective. The transition paradigm is reduced to measuring institutions and institutional performances, and the development/integration paradigm promotes a non-political, expert-driven approach to the region. All conceptual frames disregard the perspective of the citizens as the most important factor in understanding democratic developments and all are concerned to explain why things are not working as they should. Meanwhile, however, they fail to explain why things are working in the way they do.

The present Report, in contrast, adopts a citizen-centered perspective and treats citizens' political experiences as the only meaningful point of departure in any analytical journey designed to understand Balkan

politics. We define democracy not so much by its institutional settings, but through the relations between governments and citizens. For us, democracy is a regime in which people not only take part in free and fair elections, but can also influence policies. For us, it is important not only what government do but what people think.

Therefore the key elements in our analysis are the widening gap between the public and the elites, the growing distrust in the reformist agenda, and the emergence of cynical and angered majorities. In order to know what is happening politically in the Balkans, we pose the questions: What makes individuals and societies so insecure? Why are Balkan democracies so corrupt or why do their citizens perceive them as pervasively corrupt? What are the effects of hard external conditionalities in shaping citizens' loyalty to the democratic regime?

The Security Condition

The security issues of the region are well explored and are usually structured around five critical questions. What status for Kosovo? What future for Macedonia? What chance for Dayton Bosnia? When can the international forces leave the region? When will Bulgaria and Romania join NATO? But the security question centered on borders, statuses, and international guarantees does not complete the insecurity agenda of the publics. The most probable risk scenario that faces the region is not aggression or wars, but the collapse of the state. It is state weakness that emerges as the major security threat for the region.

In 1992 the Badenter Commission singled out "government's full control over the territory" as a critical criterion for recognizing the right of the ex-Yugoslav republics to secession. If this criterion were to be applied today, most of the present Balkan states would not qualify for independent statehood. Post-Milosevic Yugoslavia does not control its territory; Serbia does not control what legally is her territory; and the Macedonian government de facto also does not control some parts of the country. The inability of most governments in the region to secure the physical integrity of the state's territory is at the core of the international perception of the current state of affairs.

September 11 and the global war on terrorism also urge for a re-thinking security dilemmas in the Balkan. Formulated in the language of post-September 11 sensitivity, the problems of the region should be structured around new type of questions. **Can parts of the Balkans be turned into terrorist safe heavens? What is the influence of**

**organized crime on the politics of the governments in the region?
How should the Albanian armed groups in Macedonia be treated?**

Only recently the international community realized the profound process of the criminalization of politics and the criminalization of ethnicity that is taking place in the region. As a legacy of war, armed groups of different types proliferate in the Balkans. The prolonged UN embargo on Yugoslavia facilitated the establishment of cross-border criminal networks. Drug channels, channels for smuggling weapons, stolen cars, cigarettes, alcohol, and people are at the center of security threats in the Balkans. What we learned after September 11 is that terrorists' networks often use drug and cigarette smuggling channels to spread their activities. As recently as in 1999, 6.5 tons out of 60 tons of marihuana confiscated in Western Europe are considered as smuggled from Albania. Thus Albania and Morocco are considered the two major drug suppliers to Western Europe. A number of publications in the local and international press have documented that some of the smuggling channels have functioned as government-run businesses. Criminal lords are among the most devoted political donors in the Balkans. It is a well-documented fact that most of the local mafias are ethnically based networks. This combination of ethnicity and criminality is a critical element in sustaining violent accusations of other ethnic groups. American academic Robert Hislope in a well-researched paper claims that the brake of violence in Macedonia in year 2000 can be directly related to the interests of the Albanian criminal groups. In his view the combination between Albanian social criminality and the corrupt Macedonian state is the major obstacle for the stabilization of the country.

The criminalisation of the Balkan states and politics makes the tasks of the international community much more difficult. The only way for NATO and the EU to bring more security to the region is by policing these countries, but these two organizations are inexperienced at providing soft security. The reformulation of the security problem in terms of policing has a significant impact on the division of labor among the international security providers. The basic question is: Is the EU ready to create a common police space including the Balkans. And the answer to this question depends not on the possession of smart weapons but on the capacity to create "smart borders" – borders open for trade and closed for terrorists.

From the internal perspective, all public opinion polls conducted in the past years indicated alarmingly high rates of insecurity. People feel

insecure about their lives, their property, their communities and about the states in which they live. The levels of physical and economic insecurity are not much more different in the former Yugoslavia on the one side and in Albania, Bulgaria, and Romania on the other. It is the weakness of one's own state and not the aggressive behavior of neighbors that is at the center of citizens' concerns. A study of the cost of security in the region will show that both citizens and businesses spend huge amounts of money on security. They insure their cars with mafia-controlled insurance agencies, pay protection money to the local gangs, pay for security systems, and pay bribes to law enforcement officials to motivate them to fulfill their obligations. The World Bank calculated that 7 percent of firms' turnover in Albania is paid as bribes. The major complaint of citizens is that the weak state presents a threat to their rights, which is no different from the arbitrary violence of the communist state. In both cases citizens live in total insecurity. It is the instrumentalization of insecurity and disorder that constitute the power base for the collusion of politics and criminality.

The Social Condition

The decline in standards of living, the emergence of mass poverty, the high rates of unemployment are not new to observers of the Balkans. What remains unnoticed, however, is the dramatic rise in the physical and social displacement of huge groups of society. In fact Balkan democracies are the democracies of displaced people. This is obviously true with respect to the war victims in former Yugoslavia, but it is also true in a broader sense. How many people live in the place where they lived 10 years ago? How many of them work in the same place? How many of them stay in the same professional and friendly circles? Migration to capitals and big cities and emigration to the West is a well-documented story. But the story that remains untold is the destruction of the old professional classes. The loss of status, no less than the loss of income, determines the hostile attitude of huge groups of people to the new status quo. Balkan societies are infected with "status panic." Every sixth Albanian works abroad. Readiness to emigrate has increased rather than declined in Bulgaria over the last years. Around 52 percent of people state that if they had the opportunity, they would emigrate from Bulgaria.

The process of social and physical displacement produces a key

distinction between mobile and immobile groups in the populace. Public opinion polls in Bulgaria indicate that because of financial and psychological constraints, the majority of respondents claim that they have not left their town of residence for the last two years. The localization of huge number of citizens, mainly old and disabled people, their social paralysis and self-imposed exile is one of the sources for the collapse of the support for the reform agenda. The destruction of the old middle class is the structural explanation for the rise of political volatility.

The volatility of the social framework has increased because of the continued effects of the gap between the reform agenda and the short- and mid-term expectations of citizens. The radical and extensive programs of privatization and economic re-structuring have led to unprecedented levels of unemployment and the virtual wipeout of entire sectors of the economy and social networks underpinned by economic activity. There has been a systemic process of impoverishment in numerous sectors of the economy and society. In addition, there are sectors of society that seem completely unable, in the short and medium term, to resume employment. Economic recovery, in the countries where it exists, has been patchy in and around the major cities of the country. The much needed overhaul of the social insurance, pension and health care systems has resulted in the undermining of basic pillars of social reference and existence, producing enormous personal insecurity and psychological volatility. This has translated into a notable mistrust in the capacity of government to provide a set of services and frameworks that ensure predictability and wellbeing. In such a mindset, the political is predominantly perceived as the site of improper redistribution and individual enrichment rather than a provider of basic services. The social condition in the Balkans is a key factor for volatility in individual and collective behavior. The welfare functions of the communist state were critical for the old regime in securing a certain legitimacy with the population. Now, when the post-communist type of farewell state replaces the communist type of welfare state, it naturally results in a legitimization crisis for the new democratic regimes.

But economic decline and the rise of social inequality do not translate into rise of anti-democratic sentiments. The economic crises in the Balkans have resulted in a demand for more and not for less democracy. Polls indicate that people are dissatisfied with the performance of their democratic regimes, but they do not look for non-democratic alternatives. There are no thousands of protesters on the streets of the Balkan capitals, there are no anti-IMF riots like in Latin

America. Societies seem not to have lost their patience. But the political economy of post-communist patience should not be misread. People are not protesting essentially because communism has destroyed their capacity for collective action. Public criticism is expressed as criticism of the corruption of the regime. So any citizens' focused perspective on the state of democracy of the Balkans should try to answer: Why are the Balkans so corrupt, and why do governments fail to curb corruption?

The Vicious Circle of Corruption

"Corruption is pervasive in the Balkans". This is what you hear on the streets, this is what Transparency International claims. Public officials take bribes because they do not have a reason not to take bribes. Private companies give bribes because they do not have an option not to give. The purpose of our analysis is neither to measure corruption, nor to focus on the structural causes of it. The last years have witnessed a boom in anti-corruption studies. The rise of corruption has been interpreted in cultural terms (the notion of Mediterranean corruption); analyzed in terms of weak institutional environments, in terms of communist legacies, and so on. We neither want to repeat the findings, nor to question the proposed measures. Our question is: Why are political parties engaged in corrupt exchanges and how does this affect the democratic system? **This report argues that epidemic party corruption has to do not so much with communist legacies, post-communist pathologies or the quality of the legal environment, but with the increase of the cost of politics.** In the early years of transition, there was public resentment over the ideological nature of the political process and over the extreme levels of political confrontation. However, persistent accusations of corruption were absent. The hypothesis we emphasize is that the process of the de-ideologization of politics (the dissolution of the communism vs. anti-communism axis) and the reduction of politics to a quarrel over minor differences has resulted in a painful deficit in interest in politics and produced a deficit of militants.

The vicious circle of corruption can be described as follows. The massive withdrawal of the ideologically most motivated citizens from political activities makes political communication much more expensive.

In 1991 enthusiastic young people have been disseminating the posters of political parties. In 1999 these young people were not enthusiastic any more. To have their posters and leaflets distributed now, political parties should pay. In 1991 citizens were on the streets, joining rallies and discussion and it was quite easy for the politicians to get their message across. In 1999 parties did not capture citizens' imagination any more and parties had to pay for commercials or for "friendly coverage by the media." Examples can continue, but they all show the need for money that faces political parties. The result is that parties started to sell their influence over the decision-making process. The increased cost of politics and the effort to pay the price result in four major consequences. First, people became even more disgusted with politics, so the cost of politics went up. Second, the new politics led to the promotion of new politicians, those that Della Porta called "business politicians." Third, the increased price of politics and massive efforts to take money on behalf of the party reduced the moral cost of corruption for the individual politicians. Those who perceived it as normal to take money for the party started to take money for themselves. Fourth, political parties decided to create a class of donors, close to their parties. The privatization process in Bulgaria, for instance, was turned into the instrument for promoting a UDF affiliated business class. Privatization was not any more about what to sell, how to sell, and at what price to sell, but to whom to sell and, in the cases of small and medium enterprises, the investor perceived as strategic was the friend of the party. Buying the media turned into the dream of the parties. Thus, the need for money in the context of expensive politics is one of the reasons why governments failed to fight corruption. It is not simply the politicians' greed for money, it is society's lack of genuine politics that drives corruption.

The second reason for governments' inability to convince their citizens that they are taking measures against corruption is related to the fact that the actual level of corruption alone does not drive the anti-corruption sentiments of the public. The corruption problem has two distinctive faces. One is the actual level of corruption, the other is the escalation of anti-corruption perceptions. CLS's studies have shown that anti-corruption sentiments in Bulgaria are driven not so much by the actual levels of corruption, but by the total disappointment with the results of transition and rising social inequality in general. Anti-corruption rhetoric and anti-corruption sentiments are structurally more important for post-communist politics than it is usually believed. In the absence of a viable alternative to democracy and in the context of the de-politicization of

the policy process, the anti-corruption rhetoric remains on the one hand the only legitimate way to criticize the status quo and, on the other hand, it is the only platform open to the anti-reformist parties. In the case of Bulgaria, and also in other parts of the region, we can see the emergence of the “muckraking moment” where the corrupt nature of the elite is assumed and no one bothers to prove it. The existing status quo is clearly illustrated by the fact that in Bulgaria in the last decade none of the members of the political class has been convicted for corruption, while at the same time the Prosecutors office is investigating the 100 biggest privatization deals and most of the leading political figures are under some sort of investigation. Up until now, none of these investigations has been completed and the collected evidence ends up not in court, but in the media. The result is not the triumph of the rule of law, but a state of total insecurity and the increased use of the Prosecutor’s office as an instrument for political pressure. The perception of the public that everything is corrupt and everybody is corrupt is the basic danger to Balkan democracies. Balkans are threatened by the erosive effect of local corruption but also by the desire of the international organizations to blame corruption for all failures of the last decade.

In his studies Richard Rose has shown that what is common for those who are ready to turn their back on democracy and look for alternatives is not their incomes, their party affiliations, not former membership in the communist party, but their conviction that their country is totally corrupt. In this respect a democracy supportive anti-corruption campaign should have two objectives – the one is to reduce corruption, the other one is to make this improvement visible to the public. It is difficult to guess which of these two objectives it is easier to achieve.

The present frustration with democracy in the region and the public disaffection with it cannot be grasped without understanding the nature, the logic and re-productive power of the current state weakness. The shift to functioning democracy in the region depends on the success of societies and governments to overcome state weakness in the coming years. The persistence of weak states may lead to the slow death of democracy in the Balkans.

The Weak State

“Weak state” is a powerful term often used in the Balkan discourse. It was never defined because there was the assumption that analytically, but also practically, state weakness was obvious. It is enough to see bad roads, to suffer electricity cuts or to queue for your last year’s salary of public servants, in order to agree that the state is weaker than it was and weaker than it should be. To the majority of analysts, state weakness is like an elephant: you cannot exactly define it, but you are sure that when you see it, you will recognize it.

In the current analysis of the Balkans, there are at least three different ways to conceptualize state weakness. The strength of the state can be measured in terms of capabilities and here, following Joel Migdal, the state’s strength is defined as the capability of governments to implement their policy visions, to penetrate society, to regulate and so on. In this context, the strong state is able to collect its taxes and the weak state fails to do so. It is in this “increasing capabilities” perspective that most leaders in the region see the need to strengthen the state. But the state can be efficient on the collecting side and yet a total failure on the delivery side. So the second measure for assessment of the state’s strength is the perception of consumers of the public goods provided by the state. Is the state capable of delivering the rule of law? Does it protect human and property rights? The third approach to state weakness defines the weak state as a captured state, a state in which particular group interests dominate the policy-making process, when these interests in an illicit way shape the rules of the game. Russia, in Yeltsin’s last years of power, fits perfectly with this description.

Most Balkan countries can be described as weak states in terms of capacity, in terms of delivery, and in terms of capture. But our intention is to conceptualize state weakness as a strategic behavior of the elites constrained by public discontent and political conditionalities, and involved in a predatory project of extracting resources from the state.

The devolution of state power after communism has been analyzed. State weakness was explained as a result of a neo-liberal flirt with “the striptease state” - the attempt to undress the state of all superficialities. This approach does not explain a lot. Balkan states were never governed by neo-liberals, but they nevertheless ended up naked. The origin of the new elites and the process of the separation of party and state basically contributed to state weakness. But it is important to

emphasize that state weakness is not simply unintended consequence of the reforms, it is the desired state of affairs for the significant parts of the new elites. **The claim of this report is that new democratic elites in the Balkans have the extraction of the state as their dominant project.** The re-distribution of huge assets of state property has as its result the transformation of political power into economic power. The structural reason for the growing gap between the public and the elites is that the elites do not need wealthy citizens to realize their extraction project. To understand the logic of this process, it would help to consider the post-communist Balkan countries as akin to oil regimes where the role of oil is played by the huge state assets that should be privatized. The elite's refusal to take any responsibility for the welfare of the people is at the heart of the crisis of the Balkan democracies.

The paradox of transition is that the success of the reforms needs a stable and durable policy consensus based on the long term goals of development (economic growth, EU integration). At the same time, the very process of transformation polarizes society, producing winners and losers. Governments do not have a lot of room for maneuver. In order to stay, they should follow the reform agenda prescribed by the EU or IMF. The external constraints are institutionalized as Currency Boards and other hard instruments. The decision of the international factor to limit the flexibility of governments resulted from the permanent failure of Balkan governments to keep their promises. It is the external constraints that ensure basically the policy predictability of the region. It is sufficient to recollect the collapse of the Albanian state, the shattering political and economic crisis in Bulgaria in 1997, or even simply to watch for a while the Kostunica - Djindjic war in Belgrade to understand the desire of the West for policies binding the hands of the elite. External constraints are aimed at arresting the extraction project of the elites, but at the same time predatory elites use external pressure to excuse their lack of social responsibility. In this sense, external conditionalities affect negatively the relations between politicians and the public. Governments are elected after a love affair with the electorate, but they are married to the international donors.

Viewed from below, the Balkan democracies are political regimes in which the voters are free to change governments, but are very much constrained in changing policies. Any pressure from below is immediately labelled "populism." The international factor does not see anything wrong with parties winning elections on populist ticket and

governing on the IMF ticket. This process is conceptualized as a success of reforms. But if this development can be seen as positive in the short run, it is destructive in the long run. The recurring failure of voters to vote for a policy change can lead to three undesirable developments: 1) it can bring to power a political party that is anti-system in its character – Tudor, Sesel; 2) it divorces election campaigning from the actual practice of governance and makes it impossible to hold politicians accountable; 3) it makes political learning ineffective.

Implications

The adoption of the citizens' centered perspective to the analysis of the state of democracy in the Balkans invites unexpected conclusions. In 1995 Przeworski's report on the chances of democracy ("Sustainable Democracy") predicted, "the combination of an increasing inequality with reduced sovereignty is likely to exacerbate social conflicts and weaken the nascent democratic institutions." This prediction is coming true in the Balkans.

There is a consensus that the fragility of democracy in the Balkans is pre-determined by two sets of factors: Balkan factors and post-communist factors. Balkan factors refer to the ethnic tensions and historical controversies that are obstacles for co-operative behavior and to the delayed and unfinished process of state formation in the region.

Post-communist factors refer to the need for a parallel process of democratization and restructuring of the economy in the conditions of declining standards of living and economic hardship.

These factors matter. But reading the crisis through citizens' eyes suggests that some of the important factors contributing to the uncertain prospects of democracy in the region are related to the general state of politics these days. The expectation that the causes for the public disaffection with democracy in the Balkans is caused by specific, Balkan factors turns to be false. In its causes and manifestations the crisis of democratization in the Balkans is not different from the crisis of democracy in the developed countries. What can be different are the consequences.

The growing gap between the public and political elite and the growing mistrust in the democratic institutions is the very essence of the state

of politics in the Balkans today.

In the elite's discourse this growing gap is conceptualized as an outcome of the needed but painful reforms on the one hand and the failure of the reformist governments to communicate the reform policies on the other hand. The policy response to the crisis is conceptualized as a need for a more efficient communication policy. As a result, the amount of money spent by the World Bank and EU on "communicating reforms" is increasing considerably.

In our view the present crisis is not a crisis of communication but a crisis of representation.

Voters are in a trap. On the hand, they want the international community to control their corrupt politicians, but, on the other hand, they want to have a say in the policy making process. International players also contribute to the de-legitimization of the elites. They do not punish the elites for breaking their contracts with the voters, but on the contrary, they encourage them to do so. The international community punishes governments that break their promises to the IMF, but is not interested to what extent politicians are keeping their promises to the voters.

In the stream of the current analytical conclusions, this report argues for radical re-thinking of the current democracy assistance paradigm. The focus of a possible new approach will aim at replacing the current democracy without politics into a real political democracy. The major policy objective should be to strengthen democracy, re-connecting the agenda of reforms and the public agenda and re-gaining the trust of the people for democratic institutions.

Re-thinking the democracy assistance strategies can result in different policy packages for the different Balkan countries, but they necessarily assume

- A re-thinking of the impact of different electoral systems on the chances of the voters to promote policy change. International community has consciously been in favor of PR representation in the Balkans. It is time now to look for changes in the existing electoral systems that will help re-connect the representatives and represented.
- A re-thinking of the dominance of the experts' perspective as the only legitimate perspective in shaping transition policies.
- A re-thinking of the hostile view on the instruments of popular democracy like local and national referendums. In a situation

in which EU integration limits the power of the citizens to influence certain policy areas it is of great importance to turn municipalities into real homes of genuine politics. De-centralization should be designed and promoted as an instrument for re-politicizing society.

- A re-thinking of the effect of external constraints on political process. There is a need for designing special policies to compensate for the democratic deficit created in the process of EU accession.
- A re-thinking of who are the real agents of democratic consolidation. In our view assistance to political parties and reforms of the political parties must be a priority.
- A re-thinking of the best strategy to use NGOs as catalyst for open democratic politics. In our opinion there is a need to reconsider the view that civic activities should be de-politicized.

The only way to re-connect elites and the public is through bringing politics back in and promoting conflict and the democratic manner of conflict resolution as the source of democracy's strength. Democracy should not be afraid of politics, without genuine political process democracy cannot survive in the Balkans.

ANNEX 1

Corruption Indices

Countries	1998	1999	2000	2001
Albania	-	2,3	-	-
Bulgaria	2,9	3,3	3,5	3,5
Macedonia	-	3,3	-	-
Yugoslavia	3,0	2,0	1,3	-

Source: Transparency International

ANNEX 2

Unemployment Rate (%)

Countries	1994	1995	1996	1997	1998	1999	2000	2001
Albania	19.6	16.9	12.4	14.9	17.8	18.0	17.1	15.0*
Bulgaria	12.8	11.1	12.5	13.7	12.2	16.0	17.9	17.3
Macedonia	31.4	37.7	31.9	36.0	34.5	32.4	32.1	30.5
Montenegro	-	-	-	-	-	-	40.0	-
Yugoslavia	23.1	24.6	25.7	24.5	23.1	32.6	40.5	-

* Of the Labor force

Source: Nations in Transition 2001, Freedom House

National Employment Agency, Bulgaria

Statistical Office of Macedonia

INSTAT Bulletin "Konjktura", Albania

ANNEX 3

Confidence in Parliament

December 2001

Countries	Confidence	No confidence
Bulgaria	27.0	55.0
Macedonia	6.8	91.8
Yugoslavia *	41.8	52.8
Montenegro **	31.6	53.3

* Federal Parliament

** January 2002

Source: BBSS Gallup International

ANNEX 4

Support of the Democratic System

Does the country heading the right direction?

2001

Countries	Right	Wrong
Bulgaria	31.0	20.0
Macedonia	17.2	80.6
Yugoslavia	39.7	37.9

Source: BBSS Gallup International

BALKAN POLITICAL ECONOMY: CRISIS, POLICY AND BUSINESS

*Martin Dimitrov, Petya Platikanova and Krassen Stanchev,
Institute for Markets Economics, Sofia³*

Tacit beliefs

The key question to answer about Balkans is: what will happen if and when peacekeeping and stabilization troops withdraw from the Balkans?

There are three intuitively possible, *a priori* answers: “folks there will start fighting again”⁴, “the crisis predisposition will disappear due to the progress to date”, and “existing tensions are to sustain with reoccurring periods of co-existence and war”.

There is no direct answer to this question, but there are international policies aiming to improve the situations on the peninsula. Meanwhile, there is no debate on what was the past; everybody knows there were

³ This paper is prepared for National Endowment for Democracy/CSIS/DPI workshop-conference in Washington DC on February 5, 2002. It is based on the IME eight years of research and reforms promoting experience in the Balkans, including cooperation with leading think tanks from the region. Most of the background materials are available on the IME website (www.ime-bg.org/Balkans and CEE). The constitutional overview, comparison and analysis was undertaken two years ago with the support of the Open Society Fund – Sofia, the preliminary work was performed by Petya Mandova, researcher at IME. The institutional, macroeconomic and trade perspectives use some data from *SEE Trade and Institution*, a paper drafted by Martin Dimitrov and Krassen Stanchev, which is due to appear on The Vienna Institute for International Economic Studies - WIIW website (www.wiiv.ac.at) in March 2002. The company perspective, reflected briefly here, is taken from the recent book: Margot E. Machol, Neil Cohen (editors), *Obstacles to Trade, Growth, Investment and Competitiveness. Ten Cases on Balkan Businesses*, Sofia, The Balkan Network, 2001 (it is also available on: www.balkannetwork.org, downloading is encouraged, notification appreciated: info@balkannetwork.org).

⁴ In the last seven years, we witnessed three principal peace accords: the Dayton Accord of 1995, the Kumanovo Agreement of 1999, and the Ohrid Agreement of 2001. None of these seemed have stopped the spread of violence and violation of international humanitarian norms.

crises in the recent and more distant background.⁵

The international initiatives, e.g. the Stability Pact⁶, assume that there are two key policy responses to the crises of the past:

- Economic exchange and freedom would boost prosperity;
- And becoming rooted in election and representative democracy would set institutional preconditions for both economic development and human rights.

The very fact there is a concerted (or at least pretending to be concerted) international effort suggests that the implicit assumption is: “they will start again.” The motivation behind the initiatives is to avoid unthinkable consequences from previous conflicts. The key idea of this report is to provide insights that would, perhaps, help in answering the above question.

We do not mean that basic values underlying the political thinking and improvisation about contemporary Balkans are incorrect or inapplicable; the problem is that they are right but irrelevant to the situation. The Balkans and the international initiatives about them look as if they are running on different orbits and at different paces around the same value centers.

True, democracy will rather produce responsible government and bring normalcy back to the region and would eventually integrate it internationally. But the real politics of the day prove that democratization of Serbia has little to do with provisional resolution of the status of Kosovo, and ethnic self-determination in Kosovo does not necessarily mean liberal democracy, protection of human rights and non-militant “constitution making” in Macedonia.

⁵ In the 20th century most countries have used some form of “soft” ethnic cleansing; e.g., the last pre-Yugoslavian case was the expulsion of Bulgarian ethnic Turks in May-June 1989 to neighbouring Turkey (after they were deprived of their property rights). Similar events or negotiated “exchanges” of population, not very different from cleansing and deprivation, have been reoccurring in the last 120 years or so. Memories are alive while there is no critical mass of orientation towards the future.

⁶ There is an analogy with the EU phrase about “stability and growth pact”, which designates the agreement that if in the euro-zone a government runs a fiscal deficit of above 3% of respective country's GDP it must be fined up to 0.5% of GDP. The Stability Pact for SEE lacks such a strong “enforcement treat” but it contains a treat of anticipated humiliation of a country (leadership, politicians) that fails to demonstrate its commitment to the Pact's values. In a sense, the Stability Pact for SEE enforcement mechanism is more rooted in the political ritual rather than political decision-making.

There is also a tacit belief that if economies are more interdependent and governments and people trade more with each other, they are less likely to resort to violence, since companies and citizens have much to lose.

Unfortunately, neither the Stability Pact nor the EU Stabilization and Association Agreement managed to prevent the March – August 2001 crisis in Macedonia.

In the pages that follow we make an attempt to summarize the situation with real-life conditions that could support or counteract the working of the prosperity and democratization ideas towards resolution of the conflicts of the Balkans. In doing so, we focus – in a comparative perspective - on two sets of conditions: a) the role, the sizes and the constitutional design⁷ of the Balkan governments, and b) the habits and options in trading and business with and within the region.

Those who trade, fight?

Global economic divisions are different from those the world lived in even one decade ago. Reform leaders coped with legacies of the COMECON and re-oriented their capital and trade flows. These economies seek a niche in the global economy. The political process of building a nation state in the mid-late nineteenth century manner, when mono-centric European alliances were presumed and conceived as territorial expansion of economic influence, is rather odd. Then, the territorial identity was perceived as a precondition of prosperity, as governments' bargaining chip to seek rents from one alliance or another. Balkan nations, then, had fallen victims of these notions, fighting several wars with one another.

Now, prosperity depends on competitiveness and innovation, on whether a national economy falls into the group of technology-producing or technology-consuming economies. Balkan governments and businesses try their best to qualify for inclusion in the EU protectionist framework. If in the nineteenth century it was somehow politically justifiable to fight for territorial influence on the Balkans, at the end of the twentieth it was not. The region does not provide for natural resources on which other economies would depend, and, thus, there would be no need to protect investment and trade routes.

⁷ In the paragraphs below we deal with issues of property rights and government machinery, there is supplementary report on the constitution making in the region.

In comparison to reform leaders, Balkan countries faced different challenges. Slovenia from day one has 60% trade with EU. Bulgarian COMECON-trade in 1970 - 1980's averaged around 60%, in Czechoslovakia it was 51-52%, Romania - less than 30%, Hungary and Poland - 40% and 50%.⁸ There is no principal difference between Balkan and EU accession countries in terms of volumes trade with Europe: in either case it is above 65%. Former Yugoslav economies face the challenge of competing on EU markets and restoring links with former fellow members of the Communist Yugo-federation. Non-transition Balkans, Greece and Turkey, are also different – one being a part of the EU single market, and the other - in a free trade agreement with EU and virtually free trade relationship to Middle East (and Israeli) markets. The issue is whether and how it is possible to convert this diversity into mutual benefit. The Balkans does not constitute an economic notion, rather a political one.

As mentioned, the EU is the biggest trading partner for all Balkan economies. On the other hand, in 1998 (the best trade year), transition Balkans together had merely 1.6% of EU imports and 4.4% of exports. It is no major market for EU. Excluding Bulgaria and Romania, it is less than 1% of EU imports. The alternative Balkan market has its own peculiarities.

There is a strong pattern of gravity –dependence on geographic location and proximity.⁹

For Bulgaria, the proximity matters in the trade with Greece, a third partner since 1994 and EU member. Bosnia and Herzegovina, FR Yugoslavia and Macedonia have around 1/5 or higher portions of their trade with a neighbouring country from the Balkans. Croatia until 1999 (i.e. the end of Tudjman's rule and related difficulties negotiating with EU) exports rather extensively to the neighbouring countries. Again Bosnia and Herzegovina, FR Yugoslavia and Macedonia have relatively high neighbour shares in their exports. Data for different years do not suggest a different picture.¹⁰ In 1999 and 2000, the total internal Balkan

⁸ Rumen Dobrinski, *Transition Failures: Anatomy of the Bulgarian Crisis*, Vienna, WIIW, 1997, p.7.

⁹ A series of special WIIW surveys (which are to be pasted on the website in March 2002) confirms this estimate.

¹⁰ The constellations have changed with regard to Bulgaria: in 2000 its Balkan trade tripled, due to petroleum exports to FR Yugoslavia and the free trade agreement with Macedonia, which in 2000 equaled Russia in Bulgarian exports.

is rather negligible as a volume: 4.5-4.7%¹¹ of the aggregated regional GDP (including Greece, Slovenia, and Turkey). If we exclude these three countries and account for unregistered trade, the Balkans' trade to GDP ratio is 11-12%.

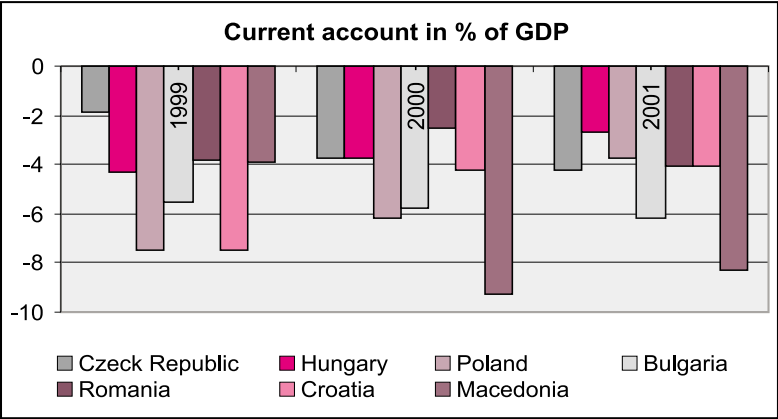
At the same time, it is obvious that the three most trading countries are those that experienced internal civic conflict and violence.

This coincidence of larger regional trade exposure and internal conflict may be explained by a different hypothesis.

One is the above-mentioned competition on the grounds of the nineteenth century economic and influence patterns: the greater the trade, the greater the temptation to resort to physical (direct) control over trade routes and territories, in order to extort taxes.

Another one is the accumulation of trade deficits, a fact often interpreted in these countries as almost equal to invasion that put in jeopardy domestic businesses (and prosperity).

As the graph below shows that, besides Macedonia (where the deficit results from the Kosovo crisis), the current account deficits are quite typical, not only for transition Balkans, but for other ex-central-planning economies as well.



In economic reality, these deficits reflect the underlying restructuring process of economies that produce goods, which even domestic customers do not buy; i.e. a situation when liberalization of imports is

¹¹ Figures quoted for 2000 are estimates since data is incomplete; source: national statistics offices and central banks, data for Bosnia and Herzegovina are missing.

the only way to overcome shortages, allow for purchasing cheaper produce and force outdated industries to restructure. But then – in political reality - idle or privilege-driven businesses could attempt influencing the government (or para-governmental groups) to protect “the nation” or to compensate for the losses. Thus, the body politic could embark on enforcement of protection and rent/tax-extortion through the use of force. This must not be actual; but it should, however, be taken into account as one of the ideas to support formation of nation-states, a sovereign polity that presumably would better protect the interest “of the people”.

Government role: the constellations of 2001

A factor whose impact is difficult to foresee in detail is the September 11 terrorist attacks. Options before individual Balkan governments and economies are changing. We assume that the following new realities must be taken into account:

1. There is a coincidence of different impacts: the economic slow-down and in EU and USA, the crisis in Macedonia and September 11.
2. The general reasoning suggests that the former two impacts are direct and would be more significant for the economies of the Balkans, in the short-medium term.
3. The combined impact will be less FDI, at least in a medium-term perspective: SEE is being considered a risky region, and, under current circumstances, this image would still be scaring investors away.
4. Balkan capital markets are in *status nascendi*, this underdevelopment would prevent direct impacts related to the so-called capital flight to quality. (The reorientation of portfolio investment would hardly have an impact on SEE; it never enjoyed such investment.) Only two countries, Bulgaria and Romania¹², are exposed to international financial markets where they trade their foreign debt securities and Eurobonds.
5. Economic performance would depend more on the perfor-

¹² Attempts to raise funds directly on the market are typical also for Croatia (there are issues of government US dollar denominated T-bills, depositary receipts of Zagrebacka banka, etc.) but respective amounts are negligible and maturity is short term (for T-bills average maturity is less than a year.)

mance on the reform front, but countries that will provisionally tap international sovereign debt (or corporate credit) market will face difficulties. Due to the lack of portfolio investment and the flight to quality, the indirect (but important) impact of September 11 will be that the borrowing for the needs of the Balkan economies will be more expensive.

6. The countries can hope for finance predominantly from development banks: IMF, IBRD, EIB and EBRD. In other words, typical government involvement in transition and development issues would remain relatively high. This is also true the role of the government borrowing and the role of IFI's.
7. The nature of the war on terrorism does not suggest it would be instantaneous. There will be a longer-term reallocation of both equity and fixed-income investment toward companies and sovereigns that would spend more on the prerequisites of this war and on industrial sectors that serve security issues.
8. Balkan economies have limited if no presence in such industries, but governments will be expected to ensure needed security surveillance, i.e. to spend more on army and security activities.
9. There is also an obvious shift in the political attention and in aid provision, on which Balkan countries tend to rely.
10. Constraints on aid-provision could be interpreted as a positive development, while the re-focus of political attention is probably not. The international consensus to curb terrorism is a political, though not practical, treat to Balkan paramilitary groupings¹³. Perhaps September 11 will have the result that the violence would not be supported to serve as a catalyst for constitutional changes.

Most of these constellations impose challenges before Balkan governments. In the two paragraphs below, we attempt a comparison of different measurements of government economic tasks and the constitutional designs that would presumably provide or prevent prosperity and efficient functioning of the government machinery.

¹³ They would probably not enjoy good-meaning names after September

Government role and size

It is almost impossible to have a unified notion outlining typical features of Balkan governments. Countries are at different situations in relation to the outside extra-regional world, e.g. EU, NATO, and even UN.

Total expenditures in general government budget / GDP in %

Country	1996	1997	1998	1999
Albania	32.6	29.5	30.7	31.6
B&H ^a	49.7	41	53	50.5
Bulgaria	43.7	35.6	40.3	43.3
Croatia ^b	29.2	28.3	30.7	34
Macedonia	36.9	35.3	41.6	44
Romania	34.1	34.3	38.3	40.4
Yugoslavia	47.7	53.3	40.1	n.a.
Greece	42.7	40.3	39.7	35.2
Hungary	49.3	49.7	48.3	47.9
Slovenia	42.4	43.2	43.7	44.4

a – Excludes municipal government operations for Republika Srpska and military expenditures financed by external grants

b – Excluding local budgets

Source: Statistical Background Data, WIIW, 2000; IMF Country Reports; IME own calculations

Measured as a percent of expenditures to GDP, Balkan government sizes are not exceptionally large. The “smallest” government is that of Albania, while the largest is the government of Bosnia and Herzegovina; and there are rather obvious explanations of this fact. There are no comparable data for 2000 and 2001. The regularity, however, is that there is no significant change in either direction, and that countries in the region sustain relatively big governments. It makes sense to what these governments do.

Governments in business

Country	Economic Freedom of the World 2001 (Fraser Institute) ^a		Index of Economic Freedom (Heritage) 2002
	Government Consumption as a % of Total (1999)	Transfers and Subsidies as a % of GDP (1999)	Government Intervention ^c
Albania	9.0 (9.6 ^b)	7.8 (8.6 ^b)	3.0
Croatia	2.8 (30.5)	4.8 (19.5)	3.0
Bulgaria	6.7 (17.1)	6.5 (13.3)	3.0
Macedonia	n.a	n.a.	3.0
Romania	6.7 (17.4)	6.7 (12.4)	3.0
Yugoslavia	n.a.	n.a.	3.0
Hungary	7.5 (14.4)	4.7 (20)	1.0
Poland	7.1 (16)	3.7 (23.5)	2.0
Czech Republic	3.8 (27)	2.8 (27.1)	2.0
Slovenia	3.8 (27)	1.0 (33.7)	3.0
Germany	4.5 (24.9)	4.5 (20.8)	2.0
Greece	6.6 (17.5)	8.6 (5.6)	2.0
Hong Kong	7.8 (13.5)	-	2.0
Switzerland	6.0 (19.5)	5.5 (17.2)	2.5
USA	5.4 (21.8)	5.6 (16.5)	2.0

a – Scores from 0 to 10 (10 - Benchmark representing maximum economic freedom)

b – Government Consumption as a % of Total and Transfers and Subsidies as a % of GDP

c – Scores from 1 to 5 (1 – Benchmark representing maximum economic freedom);
The measure comprises both government consumption and government production

Source: Economic Freedom of the World, Heritage Index of Economic Freedom

The above table makes an attempt to summarize available data on government's size and role in the economy. It gives an opportunity to compare Balkan countries (except Bosnia and Herzegovina which, for obvious reasons, is not monitored) with core EU accession countries and five relatively well performing leaders of economic liberty.

The data is for 1999, the year that gives background for comparison;

for lack of space, previous years are omitted (but there are no significant differences from previous years). Both indexes are far from perfect,¹⁴ but they give an opportunity to neutralize dramatic political developments, which fit the overall inertia of economic phenomena, including that of economic freedom.

In both indexes, Balkan governments demonstrate relatively high levels of government interference, combined with, naturally, low levels of economic activity. This situation is significantly different from countries that maintain comparable levels of expenditures, transfer and subsidies, but regularly demonstrate a higher degree of economic freedom. An exception is Albania. Its government is rather small, but it lacks reliable market institutions, which ranks the country relatively unfree.

Economic freedom is understood as liberty to engage in business and accumulate prosperity, restrained only by the need to sustain this opportunity.

The table below exhibits a comparison between one of the economic freedom indexes and the latest Transparency International CPI for five Balkan countries,¹⁵ including Greece (EU and NATO member) and Slovenia (reforms, prosperity and EU accession front-runner, in comparison with the rest transition Balkans), plus Hungary (NATO member and EU accession leader).

Economic freedom and corruption in 2001

Country	Economic Freedom of the World (Fraser Institute) ^a	Transparency International Corruption Perceptions Index ^b
Bulgaria	5.9	3.9
Croatia	5.2	3.9
Romania	3.8	2.8
Greece	7.3	4.2
Slovenia	6.2	5.2
Hungary	7.1	5.3

a – Scores from 0 to 10 (10 - Benchmark representing maximum economic freedom)

b – Scores from 0 to 10 (10 – Benchmark representing minimum level of corruption)

¹⁴ These indexes use data of the one or two years back and give higher weight to background years in comparison to last or current year.

¹⁵ TI does not monitor other countries.

Usually, there is a strong correlation between the perception of corruption and the lack of economic freedom, although the latter is measured objectively.¹⁶ Balkan countries are no exception.

Balkan Polities: a constitutional comparison

Many constitutions in the region prevent flexibility on ethnic issues in their concept of statehood, envisage a constituent nation,¹⁷ ban autonomy,¹⁸ restrict foreigners from owning land, or prohibit political representation of ethnic and religious minorities.¹⁹ To this list one should add constitutional provision for inefficient government machinery, protected monopolies and the ambiguous manner to impose duties on its citizens through minor government acts.

Central Europe did not need to build statehoods; they focused on division of powers and fixing government machinery. Romania and Bulgaria, due to not breaking with the past during the 1990 elections, embarked on constitution making as a form of legitimising a new political establishment, both communist and non-communist.

Besides building nation-state political establishments and societies in transition, the Balkans had to encounter more severe economic challenges. All of them (i.e. former Yugoslav countries and territories plus Romania and Bulgaria) lost (except Slovenia) more markets than any of the other transition countries. This prevented prompt liberalization of prices and trade (esp. imports), preventing pressures on domestic businesses to restructure, but sustaining attempts to gain,

¹⁶ See: Krassen Stanchev, Bureaus, investment and honest policies, *IME Newsletter*, vol. 5, 1998, November.

¹⁷ E.g., the Croatian Constitution says: "Croatia, the nation-state of the Croatian people and the state of other nationalities and minorities which are its citizens"; the Macedonian Constitution used to contain quite a similar statement: "Macedonia, the national state of the Macedonian people, which guarantees the complete civic equality and permanent cohabitation of the Macedonian people with the Albanians, Turks, Roma, and other nationalities living there." The Bulgarian Constitution states that "the official language is Bulgarian" (Article 3), while 10% of the citizenry has the Turkish as mother tongue.

¹⁸ E.g., Article 21 of the Bulgarian Constitution.

¹⁹ E.g., in the Constitution of Bulgaria one may find the statement that "the traditional religion [in the country] is the Orthodox Christian congregation" (Article 13.2), and that political parties established on "ethnic, racial or religious lines" are not allowed (Article 11.4), while such parties exist *de facto* and it is almost impossible to implement this provision *de jure*.

seek rent and prosper at the expense of the others with the help of the government. Incorporation and entry barriers are more costly, the business environment is worse, and FDI much lower than in Central Europe. Eventually, these developments were incorporated in respective constitutional and basic legal arrangements.

A complete constitutional perspective is beyond the capacity of this report. I would limit the discussion to themes that are presumably more or less directly related to prosperity and functions of democracy.

Property rights

As explained by Epstein²⁰, property rights are protected not only when the holders of these rights are free from physical invasion or the threat thereof, but also if they may transfer them legally at lower costs.

Balkan constitutions are preoccupied with protection of property rights, but this is a relatively common feature of many post-Communist constitutional arrangements. All constitutions proclaim to protect private property rights. In the constitutions of Bulgaria (Article 17.1), Macedonia (Article 30.1), Poland (Article 21.1 and 64), Slovakia (Article 20.1), Slovenia (Article 33) and Yugoslavia (Article 51) the state protects not only property rights, but also inherited property rights. There are similar provisions in the constitutions of Germany (Article 14.1), but not in such a detail. Albania's constitution even lists the ways of acquiring a property ("by gift, inheritance, purchase or any other classical means provided by the Civil Code" - Article 41.2). At the same time, Bosnia and Herzegovina, Czech Republic and Croatia do not stipulate in explicit wording that the property rights are sacred, but this fact does not necessarily mean lack of their protection.

There are many provisions that protect private property from invasion. In all constitutions there are rules on the privacy of the home. The home is "inviolable" (e.g. Bulgaria; Article 33.1); it is a part of private life protected by the constitutions (Bosnia and Herzegovina; Article 3).²¹ The court can intervene in private property only when there are concerns that a crime was committed there (Croatia; Article 34.2). The property rights might be violated if there is a statutory stipulation,

²⁰ Epstein, R. The Public Trust Doctrine, Cato Institute, Cato Journal, Vol. 7, No. 2 (Fall 1987).

²¹ From all transitional constitutions only those of Slovenia and Czech Republic there are not exclusive provisions on the home inviolability.

in case of a need to protect “public order or health”, or “the rights and liberties of others” (Estonia; Article 33 and Macedonia; Article 26). There might be other arguments, as is stipulated in the constitution of Romania, “to defend national security or public order” (Article 27.2,3). The constitution of Slovakia is rather vague; the conditions under which private property might be violated are: if this is “inevitable in a democratic society” and it is done to protect “lives, health, or property”, or “public order”.²²

However, there are different stipulations on the conditions that the state might divert private property rights. Only in “the public interest” the state might limit or expropriate property (Albania; Article 41.3). The property rights should be infringed by law (Estonia; Article 32) and/or after final judgment of the court (Poland; Article 46). If public benefits are higher than costs of violating property rights, then the state can limit or expropriate private property (Romania; Article 41). The state might define not only the public interest, but also the needs of society and the national economy, which can justify the restrictions imposed on the property rights (Slovakia; Article 20). The property rights impose duties to be used not only in private but also in the public interest, as is stated in the Macedonian constitution; for public interests they might be diverted (Article 30). In the constitution of Slovenia, it is also stated that the property rights must be regulated and the benefits from them are supposed to be economic, social and environmental (Article 67). In the constitution of Hungary it is stipulated that it can be done only in the public interest, but if there are exceptional cases (Article 13). The property rights can be diverted when there are state or municipal needs, which “shall be effected only by virtue of a law, provided that these needs cannot be otherwise met” (Bulgaria; Article 17). In the constitution of Poland it is stipulated also that in a state of emergency there might be compensation for diverting property rights (Article 228). The public interest might direct the state in diverting property rights when rendering public services. In the constitution of Slovakia the state controls natural resources, which are excluded from other constitutional provisions on property rights (Article 4). The property rights might be restricted if public services are rendered. However, there are also constitutional rules, which provide a discretionary power of the government to control how they are used

²² In the Slovak constitution one can also find that if “the tasks of public officials” require that, the inviolability of the home, which is used for performing different economic activities, might not be defended (Article 21.3).

(Slovakia; Article 20.3).

Land is believed to be of the highest national value.

The property rights are protected if they can be transferred legally at lower costs. There are different provisions on property rights over land. As already mentioned, in Bulgaria “arable land shall be used for agricultural purposes only” (Article 21.2). There are other legal barriers to obtain property rights over land: constitutions ban foreigners from buying agriculture land, as it is in Bulgaria²³ and Romania (Article 41.2). In many other (but not only Balkan) constitutions, the conditions are stipulated by law under which foreigners may acquire property (which makes it difficult or illegal): Croatia (Article 48), Estonia (Article; 32.3), Macedonia (Article 31) and Slovenia (Article 68.1). In Bulgaria, there is also a law on protecting land, which repeats the constitutional directive that the arable land should be used only for growing agricultural products. In fact, around 40% of the agriculture land is not used at all.

Constitutions and crisis

Every representative democracy requires a set of rules for peaceful changes of government. Perhaps given the background of the region, Balkan constitutional fathers have paid particular attention to the rules of changing the government in times of political crisis. It does not seem very efficient in the area of real politics.

Article 99 of Bulgaria’s constitution gives an opportunity for three consecutive attempts to form a cabinet in case of failure (resignation, non-confidence vote), the first assigned to the political faction that failed, while the head of state is almost obliged to submit the mandate to it. In addition, there is no deadline in between the attempt of all three of them in order to end the crisis and/or opt for fresh elections. In fact, the constitution provides for a sort of second try for the incumbents (who just resigned or deserved no confidence) to form a new executive and for endless bargaining that in principle could be repeated several times during the mandate. In reality, both scenarios happened after the adoption of the constitution, in 1992 and in 1997. The procrastinated crisis of 1992 stopped the reforms and brought about ad hoc majorities in the parliament. The crisis of 1996-early 1997 was resolved only thanks to the successful attempt of President

²³ “No foreign physical person or foreign legal entity shall acquire ownership over land, except through legal inheritance” (Article 22.1).

Stoyanov and the National Security Council to convince the then-incumbent Socialists not to opt for a second cabinet.

Before the recent amendments, the constitution of Croatia did not contain the hypothesis that the president is, among other thing, a mortal human being. In the period preceding the elections of 2000, Romania had been twice brought to the verge of a constitutional crisis due to the fact that the constitution does contain an indisputable mechanism for replacing the prime minister. This did not prevent, however, a development which allowed President Constantinescu and the chaotic parliamentary majority to replace two heads of the cabinet and to reshuffle a number of times key ministers.

None of the Balkan constitutions (exception is Yugoslavia, article 82) deals with a political crisis necessitated by a failure to adopt a budget. Such a fiscal inefficiency, however, is a key hypothesis of in the case of Poland (article 225).

Adopted after the statehood crisis of 1997, the Albanian constitution is probably the most specific on these procedures. Articles 87, 90, 91, 96, 104 and 105 envisage five failures (reoccurring in a one-week time) of the legislature to elect a council of ministers; a repetition of this failure after fresh elections; procedures to impeach the head of state for "serious violations of the constitution"; three reoccurring in periods of 10-day failures of the parliamentary majority to vote the prime-minister and two 15-day-attempts of the majority to elect a prime minister in an event of non-confidence. Perhaps the most (among Balkan countries) interestingly designed procedure to tackle a political crisis on a federal level is provided by the Federal republic of Yugoslavia (articles 82-84, 97-98 and 103-104): the legislature "shall be dissolved at the request of the federal government" (article 83.1) but may not happen if "if the procedure for a vote of confidence in the federal government has been initiated" (article 83.2).

Some conclusions

As Stefano Bianchini comments, all of the post-communist constitutions guarantee the right to private property. The role of the state, however, is not only in adopting legal rules but also in protecting specific rights that are basic for reinforcing the national sovereignty of the Balkan countries. These rights are a part of the security doctrines. All that can be found in the constitutional provisions, in which restrictions are imposed on foreigners to own land. The state and the land are used

as synonyms. The explanation for these constitutional rules, which is provided by Bianchini, is that for the politicians in the Balkans, the control over the land is a *conditio sine qua non* for avoiding any “semi-colonial status”. The property rights are also related to the unresolved problem of the ethnic minorities.²⁴

The analysis from government monitoring results by different organizations reveals the following repetitious Balkan features of the size and the involvement of the government:

- There are relatively large governments,
- There are high levels of government transfers and subsidies,
- Comparatively low levels of economic freedom are rather common,
- And there is a high level of perception of corruption.

The general conclusion is that the majority of the Balkan transition governments are big in terms of interference and weak in promoting and/or allowing prosperity to work. The constitutional set up of the Balkan countries often does not provide by itself for either efficient government or for effective protection of property rights. However, constitutions of other reform countries are not much better, while the governments are basically two times more effective in terms of prosperity. As we shall see below: Balkans restore their pre-reform national income twice as slowly in comparison with countries of Central Europe. The impression is that individual countries were preoccupied to curb the memories of central planning and the lack private perspective but failed to secure condition for prosperity.

In comparison, the basic laws of Hungary, Czech Republic or Poland deal less with property rights and relatively little with political crisis hypothesis. Some constitutions, as the ones of Albania and Bulgaria, seem to have designed their government machinery with the idea to provide for political stability. The manner in which they do so is to stabilize the incumbent government, making internal political transitions costly and difficult to control.

²⁴ Bianchini, Stefano, “The Idea of State in Post-Communist Balkan Societies”, In *State Building in the Balkans*. Longo Editore Ravenna. 1998. p. 64.

The size of the region (backgrounds of being of interest)

The dependency on international initiatives, constellations and agreements and the inability to cope with the past legacy in Balkan countries is jeopardized by the low income of these economies.

Bulgaria's GDP per capita is 1/5 of the EU lower rank economies. The average SEE GDP per capita at market exchange rates in 1998 (before the Kosovo crisis) was USD 1,793. The lowest GDP per capita was in Albania (USD 1,110).

The highest nominal GDP per capita in the same year was in Croatia - USD 4,635. The total SEE GDP was USD 94.92 billion. It is 0.32% of the nominal value of the 1998 world output. If we exclude Romania (which is roughly 40% of the total SEE), the remaining SEE GDP for 1998 is USD 58.12 billion, i.e. 0.2% of the world output. (Average per country means 0.033%). Excluding Romania, the total SEE GDP was roughly 1/12 of the combined 1998 public procurement budget of the EU member states.

In terms of PPP, however, the differences are not so drastic (see the table below).

A GDP per capita comparison suggest that between 1870 and 1989, neither market nor central planning could generate prosperity at best available standards. The CEE countries did not change their relative position vis-à-vis Western Europe and the West in general. The situation of the Balkan countries is likely to be worse than in CEE.

CEE Per Capita GDP as Percentage of the West²⁵

Regions	1870	1913	1938	1973	1989
Western Europe	44	44	44	45	40
Overseas West	32	30	35	38	32

After more than ten years of transition to a market economy, the SEE countries have restored between 70 and 80% of their pre-reform GDP

²⁵ Ivan T. Berend, From Plan to Market, From Regime Change to Sustained Growth in Central and Eastern Europe, Economic Survey of Europe, UNECE, 2000, No 2/3, p. 49, a quotation of A. Madison, Monitoring the World Economy 1820-1992, OECD, Paris, 1995, p. 212.

levels. As a result of the complicated situation in Serbia (in economic and political aspect in the last few years) this indicator has lower value there, compared to the other countries in the region. B&H, as a newly emerged country, is a statistical exception with 621,8% GDP growth in 1994 - 2000. (In terms of real GDP growth per capita, it is a fairly typical SEE country).

GDP per capita in USD at PPP (Purchasing Power Parity)²⁶

	1995	1996	1997	1998	1999	2000
Albania	2571	1277	2692	2893	n.a.	n.a.
B&H	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Bulgaria	5390	4990	4790	4950	5170	5610
Croatia	5610	6330	6730	7040	7110	7600
Macedonia	4060	4170	4260	4380	4530	4920
Romania	6210	6630	6330	6030	5920	6240
Yugoslavia	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.

When comparing the Central European countries' growth with those in SEE, we cannot miss the point of restoration of 1989 GDP per capita levels. In 2000 the Central European countries had with almost no exception reached the level of 1989. The pace of SEE is roughly twice as slow. (The unique exception is Albania although it is because of the very low benchmark of 1989 and remains the among the lowest in the region.)

If we compare Bulgaria with Ireland - a country, which made a difference in terms of fast convergence, aggressive pro-growth policies and pro-FDI policies (after 1987) and reasonable use of EU structural funds, Bulgaria in terms of nominal GDP per capita is below Ireland in 1960. When Ireland started its acceleration toward higher income EU countries in the early 1990, its nominal GDP per capita was 6.7 times higher than Bulgaria's in 2001.

A recent research of WIIW allows an attempt to foresee the capacity of the two biggest Balkan countries (Romania and Bulgaria) to catch up with the EU and make a comparison with Hungary and Russia.

Bulgaria's GDP per capita at PPP is 24% of EU average in 2000. For

²⁶ Source: Wiener Institut fuer internationale Wirtschaftsvergleiche (WIIW) Database

comparison, the Central European transition economies have two or three times higher value of the indicator.

Is convergence to EU really happening? The forecast for 2015 presumes that Bulgaria will have 32% of the EU average GDP per capita (if GDP growth is twice as fast as the EU, at 4% per annum). If we attempt to speculate on the provisional EU conversion terms (in GDP levels), assuming 8% growth for Bulgaria and 2% for EU countries, we predict that the convergence will actually happen in 25 years.

GDP per capita at current PPPs (ECU/EUR), from 2001 constant PPPs²⁷

	1990	1994	1995	1996	1997	1998	1999	2000	2005	2010	2015
Bulgaria	4862	4657	5007	4600	4378	4583	4823	5160	6278*	7638*	9293*
Romania	5339	5165	5768	6113	5785	5576	5526	5736	6712*	8167*	9936*
Hungary	7215	7790	8330	8613	9086	9735	10437	11237	13935*	16955*	20628*
Russia	8418	6167	6164	6074	6177	5991	6386	7001	8600*	10463*	12730*
Germany	15052	18695	19886	19928	20420	21197	21905	22584	24934**	27529**	30395**
Austria	16043	18953	19970	20681	21084	22016	22929	23732	26202**	28929**	31940**
Greece	8821	11020	11917	12323	12447	13046	13787	14352	15846**	17495**	19316**
EU (15) average	14753	17032	18113	18538	18948	19740	20553	21251	23463**	25905**	28602**
Japan	16777	19702	21038	22142	22455	22177	22617	22934	25321**	27956**	30866**
USA	21899	25142	26116	27181	28507	29957	31538	33146	36596**	40405**	44611**

²⁷ Source: The Transition Economies: Externally Conditioned Improvements in 2000, Slowdowns and Adjustments Likely in 2001 and 2002, WIIW, 2001, p. 34

* Projection assuming 4% p.a. GDP growth and zero population growth p.a.

** Projection assuming 2% p.a. GDP growth and zero population growth p.a.

Convergence of Some Emerging European Economies with EU (15) average=100

	1990	1994	1995	1996	1997	1998	1999	2000	2005	2010	2015
Bulgaria	33	27	28	25	23	23	23	24	27	29	32
Romania	36	30	32	33	31	28	27	27	29	32	35
Hungary	49	46	46	46	48	49	51	53	59	65	72
Russia	57	36	34	33	33	30	31	33	37	40	45
Germany	102	110	110	107	108	107	107	106	106	106	106
Austria	109	111	110	112	111	112	112	112	112	112	112
Greece	60	65	66	66	66	66	67	68	68	68	68
EU (15) average	100	100	100	100	100	100	100	100	100	100	100
Japan	114	116	116	119	119	112	110	108	108	108	108
USA	148	148	144	147	150	152	153	156	156	156	156

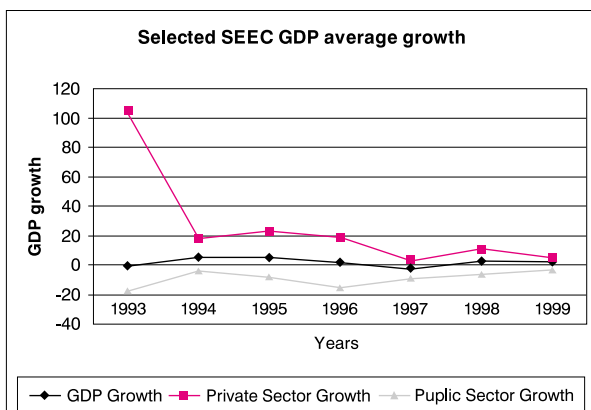
Sources: The Transition Economies: Externally Conditioned Improvements in 2000, Slowdowns and Adjustments Likely in 2001 and 2002, WIIW, 2001, p. 34

Reforms and economic development

After Balkan countries have been experiencing more than 10 years of transition to a market economy, they continue reforms with often vague or even contradictory success. Some of them (Yugoslavia or Serbia) have just made their first step into the reforms. It is not only a question of pace but also of direction, which still needs to be confirmed, if not for the insiders but for the international public opinion.

It is obvious, however, that in all the countries the development (as reflected in GDP) has been lead by the private sector. This is a common denominator for the region and is clearly observed in individual countries. The graph below summarizes the role of private and public sector growth in Albania, Bulgaria, Croatia, Macedonia and Romania, in 1993-1999. Serbia and Bosnia and Herzegovina (B&H) are not included due to missing data on private sector in GDP.

The first year, 1993, reflects the end of the “explosive” emergence of the private sector in SEE. In 1994-1999, we observe a gradual slowdown in the private sector growth rates, which put together with the stabilization of the slowdown in the public sector during 1997-1999,



Source: National statistics and own calculations

appears to be indicator for restructuring of these economies. The leading role of the private sector is obvious - 70-80% of GDP in all countries, and it often compensates for the decline in the public sectors. By the end of the 1990's, the public and private shares in economic growth tend to converge but country-level data still indicate the leading role of the private sector. In this sense we may assume that the direction of reforms – private sector based market economy – is, by and large, established.

SEE and CEE GDP growth: 1990-2000²⁸

GDP growth (in %)	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	Index 1989=100%
Albania	-10	-28	-7.2	9.6	8.3	13.3	9.1	-7	8	8	6.5	101.9
Bulgaria	-9.1	-11.7	-7.3	-1.5	1.8	2.9	-10.1	-7	3.5	2.4	5.8	71.9
Croatia	-7.1	-21.1	-11.1	-8	5.9	6.8	5.9	6.8	2.5	-0.3	3.8	81.3
Macedonia	-10.2	-3.2	-6.6	-7.5	-1.8	-1.1	1.2	1.4	2.9	2.7	5.1	83.1
Romania	-5.6	-12.9	-8.8	1.5	3.9	7.1	3.9	-6.1	-5.4	-3.2	1.6	76.8
Serbia	-7.9	-11.6	-27.4	-29.6	8.5	7.0	7.8	10.1	1.9	-18.3	7	51.1
Czech Republic	-1.2	-11.6	-1.1	0	2.2	5.9	4.8	-1.0	-2.2	-0.8	2.7	96.6
Hungary	-3.5	-11.9	-3	-0.6	2.9	1.5	1.3	4.6	4.9	4.4	5.5	104.8
Poland	-11.6	-7	2.6	3.8	5.2	7.0	6	6.8	4.8	4.1	4	126.6
Slovak Republic	-2.5	-14.6	-6	-3.5	4.9	6.7	6.2	6.2	4.1	1.9	2	103.2

²⁸ Source: National statistics, WIIW Database, own calculations.

A comparison of SEE and Central European emerging economies shows that Balkans restore their pre-reform GDP level at (roughly) twice slower pace than leading EU accession countries.

Peculiarities of doing business

Besides the leading role of the private sector, economies and company structures are not well positioned to prevent external constraints to regional and indigenous development. Most economies are led by private sectors and services they are rarely competitive. Foreign direct investment is negligible in absolute and in per-capita terms. The level of foreign ownership in Spain is 42%, in Poland 12%, and in Romania 6%.²⁹ Economic interdependence (besides Croatia in Bosnia-Herzegovina) is no factor. Co-operation and, hence, stability in SEE must have a structure that supports them. Since, as we shall see below, Balkans rarely trade with itself, co-operation requires networks of capital allocation and information.

Company demographics

In an unknown business environment, more transparent companies and/or partners are expected to be joint-stock companies while partnership, limited liability, and sole proprietorship would rather fall in the category of less transparent ones. More transparent companies would find partners easier, they will be relatively easier to identify and make business with, and they would constitute a given economy engine of growth.

SEE companies ownership structure in 2000³⁰

²⁹ Source: Heriot-Watt University, UK, quoted by: Francis Harris, "Join at your Peril," *Business Central Europe*, March, 1999, p. 12.

³⁰ Source: Country national statistics. The total number of the companies in Bulgaria is quite high, due to the number of sole proprietors. It reflects the favourable tax-treatment of this organizational form, especially given the opportunities to reduce mandated social welfare benefits or pay a patent (lump) tax for operating a profession. The only division of companies, which is used in Albania, is to juridical and physical bodies, as only 26% (16,554) of all the companies are juridical bodies. Unlike in other countries, in Albania the legislation does not envisage creation of Limited liability companies and Joint-stock companies, which limits the possibilities of business organization.

In Romania, the companies' organization is quite specific. In practice, there is no difference between sole proprietorship companies and limited liability companies. State monopolies are classified in a separate chapter under the title – *regies autonomes* and their number in 1998 is 183. Moreover, there exists additional division in companies of co-operative and non-co-operative.

SEE companies ownership structure in 2000³⁰

Country	Total number	Sole proprietorship companies	Limited liability companies	Joint-stock companies	Year
Albania*	63,670	-	-	-	2000
Bulgaria	769,969	533,512	101,350	23,472	May 2001
Croatia	189,576	30,474**	51,993**	1,927**	2000
Macedonia	128,802	68,662	35,071	812	2000
Romania***	318,376	-	-	12,422	1998
Serbia	268,167	122,842	81,135	1,490	2000

* The total number of firms in Albania is 63,670, of which 74% are physical persons and 26% are juridical persons

** Number of active companies in Croatia

*** According to Romanian legislation and practice, there can be no distinction between sole proprietorship companies and limited liability companies. As of 1998, total 318,376, of which: regies autonomes-183 (state-owned companies of strategic importance); stock companies-12,422; limited liability companies-291,106; other types of non-cooperative companies-12,429; cooperative companies-2,236.

Generally speaking, there is a small number of joint-stock companies and a high density of sole proprietorships. This reflects underdeveloped company demographics, lack of trust in the economies and the lack of institution that would support it through contract enforcement, e.g. (functioning) public registries, arbitration, courts, etc. On the other hand, there are cumbersome incorporation procedures: in Ireland it is 25 times cheaper to establish a joint stock company than in Bulgaria.

The company demographics of low-income economies might be considered as typically consisting of three groups of companies:

- Subsistence firms, in which there is little distinction between household and firm's finance, and which have high "social" value added, but little sense for the economy.
- Survival companies, they are incorporated, niche filling, relatively immobile, dependent on "single" suppliers or markets.
- Competitive companies, which are driven by productivity and quality of operations and are mobile, adjustable to the demand of a sophisticated market.

From these three groups, it is likely that the first prevails in SEE, while the share of the third group is negligible. In this demographics, sole

proprietorship are more likely to belong to the first category. In Bulgaria, one of the relatively well established Balkan economies, the picture is the following. 85% of the registered enterprises are sole proprietorships. 150 000 (i.e. roughly 1/3) might be considered active (i.e. pay taxes or report more profits than losses), of them 140 000 patent (lump) taxpayers (BGN 357 on average in 1999³¹). The share of the competitive companies of all registered is - 5-7%. In 1999 and 2000, the economic sense of the size is that those enterprises, which by law are considered SMEs produced 35% of the country's gross value added in 1999, while large companies produced 65%.

Political weight

It is difficult to underestimate the political influence of this company population. Subsistence companies could be a subject of welfare policies and usually in high-income economies of the EU they are. Votes are with the majority: there is pressure to support survival and subsistence companies at the expense of competitive ones. In Bulgaria and the Balkans, they advocate welfare-like policies, requesting subsidies and protectionism and their demands often serve as substitutes for the economic rationale of domestic and international policies.

Payment system

A recent study of 125 firms trading in the region from five countries and territories (Albania, Bulgaria, Kosovo, Macedonia and Montenegro) provided evidence that payment system in the Balkans is in *status nascendi*. There is abundant anecdotal evidence that it is not much different in Serbia's trade and that it is lacking formal institutionalization between Republica Srpska and Yugoslavia.

One third of all payments to trade in the Balkans are claimed to be in cash. A possible explanation of this situation is that thus tax payment is avoided, and moreover, if the money's origin is illegal, using banks is not an alternative at all. Together with barter, the non-bank component in the payment system equalizes the bank segment. It

³¹ The current exchange rate to the US dollar is 2.15.

looks as if, however, the system operates through correspondent links with banks outside the region or at least through branches of institutions located in Greece and Turkey. Preferable payments are in DM (respectively Euro). Local currencies are used three times less than DM (41% of the payments) and USD (26% of the payment).

Trade with the neighbors

Although the trade statistics are far from perfect, it gives some insights.

SEE inter-regional trade 2000 (in million USD) *

	Albania		Bulgaria		Croatia		Macedonia		Romania		Yugoslavia	
	Exp.	Imp.	Exp.	Imp.	Exp.	Imp.	Exp.	Imp.	Exp.	Imp.	Exp.	Imp.
Albania	0.078	26.4	-	-	1.42	12.89	2.54	24.7	0.23	5.98	7.26	9
Bulgaria	n.a.	n.a.	-	-	n.a.	n.a.	110.3	25.8	86.3	230.2	374.5	23
Croatia	10.1	0.4	4.2	7	-	-	59	54.9	3.3	19.2	107.2	30.6
Macedonia	n.a.	n.a.	26.9	97.4	47.7	57.4	-	-	n.a.	n.a.	333.3	189.7
Romania	10.4	0.1	289.5	87.8	19.2	3.7	14.2	1.9	-	-	137.9	65.3
Yugoslavia	0.3	1.1	23	324	19	43	210	130	23	145	-	-

* The statistical information is provided by the National Statistic Services of the SEEC

The peculiarities of the registered flows are interesting. For instance, there is a 2.6 fold difference between Macedonia's exports to Yugoslavia (USD 333.3 million) and official Yugoslavian figures for imports from Macedonia (USD 130 million). This is a reflection of the trade between Kosovo and Macedonia, and gives a hint as to the size of the stake of those who would eventually control this exchange.

The obvious explanation is the low competitiveness of goods and services produced in the Balkans. On a policy level, this situation leads often to attempts to foster exports through artificial measures: direct and indirect subsidies and protection to "sustain" domestic industries, jobs, etc. Such policies are very difficult to apply toward major markets; in the Balkans case, toward the EU. For this reason, they take place in other directions, including Balkans itself. At the same time, the omni-presence of trade deficits is to some extent natural; it reflects restructuring. An indicator here is the import of so-called investment goods. In the Standard Industrial Trade Classification (SITC) they are reflected in the following categories: manufactured goods classified by materials, machinery and transport equipment and miscellaneous manufactured articles. For the entire period in question

for all the countries, the imports exceed 50% of all the imports.³² Pressures to restructure and attract FDI that might compensate for the lack of competitiveness and shortages of capital must be considered as a part of the foundation to cooperate. It is not clear, however, whether it may come from the Balkan economies and businesses themselves.

Trade policies and realities

In order to understand specifics of trading with the EU and the Balkans, and to make a case for the existing co-operation and trade opportunities in the region, we focus on Bulgaria.

Bulgaria deserves this attention and may serve as a representative example of the region due to the following circumstances: a) it is an average country in terms of demographics, nominal and PPP GDP per capita; b) it lacks extraordinary events and conflicts, which could deviate major patterns of economic policies and behaviour; and c) it has the average history of economic reforms, with its ups and downs and attempts to rely on different reform philosophies.

Bulgaria's case outlines the regularities of changing trade partners in the second half of the nineties and deficiencies and disadvantages of different trade directions, and highlights the role of the Balkans. In addition, we provide detailed analyses on revealed comparative advantages for different commodity groups, nine of them altogether and where possible we give a five-year time service (from 1995 to 1999). This approach helps us to identify sectors where the Balkan market plays a special role vis-à-vis the EU and CEFTA. We omit any discussion of services, although transport and tourism are the sectors with the fastest growing share in Bulgaria's exports. We also avoid discussing Bulgaria's performance on markets other than the EU, CEFTA, CIS and the Balkans because we think that such analysis would add details to the description of Bulgaria's trade performance but will contribute a little to the deliberation on regional co-operation and its status for supporting stabilization.

From 1990 to 1991, Bulgarian exports contracted four times in absolute terms. This is a unique case of such a shock in the Balkan's recent

³² See, for instance, data on imports by commodity groups for SEE for 1999 in: Vladimir Gligorov, Vasily Astrov, Prospects for Development in South-East Europe, Vienna, WIIW, Bank Austria, 2000, p. 20.

economic history; exports shrank in other countries as well but only by a fifth or a quarter. In the reform years, exports grew in absolute terms only in Romania.³³ Bulgaria behaved like all the other countries of the region.

Trade and economic growth depend on the development prospects of major markets. Bulgaria, similar to other Balkan countries, depends seriously on international trade. Presumably, in the years to come, the growth prospects of the EU and other major partners would be of vital importance to the growth potential of the country. The same is true for all the countries in the region. Another peculiarity here is that Bulgaria enjoys beneficial asymmetric 10-year trade agreements with the EU, signed in 1993. By 2003, some preferences will fade away. Another important factor is the non-tariff barriers of the EU, which could impose a serious obstacle for Bulgarian companies (industrial and higher value added goods mostly), but there is a need for special and highly specific research on the matter. Available sources allow for only general impressions³⁴. Other Balkan countries have signed similar, although not identical, agreements lately and they would presumably face similar challenges. Bulgaria's performance might hint at patterns to be avoided or followed.

To demonstrate all these, we need to discuss some peculiarities of the so-called revealed comparative advantage (RCA). A positive and high value of RCA for a particular commodity approximates the take off point, which companies may (or may not) convert into better competitiveness of different commodities on different markets. The calculation of RCA is according to the conventional formula:

$$RCA_i^j = \frac{(X_i^j - M_i^j)}{(X_i^j + M_i^j)}$$

RCA_i^j - is revealed comparative advantage in production of commodity i in respect of a given country

X_i^j - is the value of exports of commodity i to a given country by country j

M_i^j - is the value of imports of commodity i from a given country to country j

³³ See a comparative table in Vladimir Gligorov, Vasily Astrov, Op.cit. p. 21.

³⁴ See, for instance: Stanislav Daskalov, Dimitar Hadjinikolov, The Impact of Technical Barriers to Trade on Bulgaria's Exports to the EU and to the CEFTA countries, Sofia, European Institute, 2001.

	EU					CEFTA					SEEC				
	95	96	97	98	99	95	96	97	98	99	95	96	97	98	99
SITC 0	+	+	-	+	+	++	-	--	-	-	+++	++	++	++	+++
SITC 1	+++	++	+++	+++	+++	+++	+++	+++	+++	+++	++	++	+	--	+
SITC 2	+	+	++	+	++	+	-	-	-	-	-	++	+	0	+
SITC 3	+	++	++	-	+	++	--	++	+	+	+++	+++	++	++	+++
SITC 4	--	---	--	---	---	---	---	---	---	---	+++	+++	+++	+++	+++
SITC 5	-	-	0	-	--	-	-	-	-	--	+++	++	++	++	++
SITC 6	+	+	+	+	-	--	-	--	--	--	+	++	++	++	+++
SITC 7	--	--	--	--	--	-	-	+	+	--	++	++	+++	++	++
SITC 8	+	+	+	+	++	-	-	+	--	--	+	+++	+++	+++	+++

*Legend:

RCA values between 0.7 and 1 (+++)

RCA values between 0.35 and 0.7 (++)

RCA values between 0 and 0.35 (+)

RCA value 0 (0)

RCA values between 0 and -0.35 (-)

RCA values between -0.35 and -0.7 (--)

RCA values between -0.7 and -1 (---)

SITC 0 - Food and live animals

SITC 1 - Beverages and tobacco

SITC 2 - Crude materials, inedible, except fuels

SITC 3 - Mineral fuels, lubricants and related materials

SITC 4 - Animal and vegetable oils, fats and waxes

SITC 5 - Chemical and related products

SITC 6 - Manufactured goods classified chiefly by material

SITC 7 - Machinery and transport equipment

SITC 8 - Miscellaneous manufactured articles

RCA on Bulgaria's trade: Summary* ³⁵

The table gives the opportunity for some conclusions, which could be relevant in a regional context.

- The more is the value added, the less is the RCA on EU and CEFTA markets.
- The concentration of RCA is yet more frequent on EU market, presumably because of the asymmetric agreement still in force. Even on those remaining RCAs, the intensity is very minimal, and perhaps temporary.
- The SEE market is a concentration of Bulgaria's RCAs; it compensates for lack of position in other directions; however, the current account situation shows that the Balkans serve as a compensatory market only in the sense that it harbours remnants of non-competitive products to other markets and from the legacies of the past industrial structures.
- Bulgaria's presence on the SEE market is diverse and hardly specialized. It covers almost evenly the entire SITC classification. Although there is an obvious interest to maintain this presence, the improved restructuring of other economies will result in a challenge to improve the competitiveness of Bulgarian companies trading in the Balkans.
- The 2001 crisis in Macedonia, to which Bulgaria's exports almost equal those to the USA or Russia, is a warning about the risks associated with greater Balkan exposure and must signal political efforts to maintain stability in the region as a pre-condition for trade and cooperation.

Conclusions

The countries of the region have embarked on the integration path in different years and have different statuses vis-a-vis the European Union and the European market, often resolving sovereignty issues no international body wanted to deal with comprehensively.

The only consecutive EU foreign policy is trade policy. Even asymmetric benefits from the EU are not necessarily good. Companies would use

³⁵ See upcoming: Krassen Stanchev and Martin Dimitrov, SEE Trade and Institutions, IME, p. 23

them as a refuge from the need to restructure and extort privileges from the government.

Balkan markets only temporarily compensate for lacking competitive positions in all other directions. Eventually trading only with neighbors keeps you poor, while most companies compete on the same advantages. Those countries that earlier qualified for EU protectionism seek to benefit at the expense of the late-comers.

Regionalism in thinking and the interest in regionalism exist as an intellectual fashion or, at the best, as an international community expectation.

Companies (local and foreign) that have stakes in the regional market may seek protection from opening up the region and may have vested interests in maintaining risks and impediments to doing business in the Balkans.

For this reason, the critical political mass of influence regional policies and approaches is missing; business frameworks are diverse and barriers to outsiders are, by and large, supported.

At the end of the day, there is little domestic will to set pre-conditions to trade and cooperate.

Regional initiatives are inevitably extra-regional and must not be perceived as a substitute for core market and democratic (and constitutional) reforms. On the constitutional front, hurdles to reforms were set by sustained government controls and by costly political and administrative transfers of power.

A condition is to avoid divisions of legitimate execution of power in the Balkans, support representative and dialogue- (negotiation) based mechanisms of public governance.

Otherwise, the philosophy of all (governments, firms and *chetniks*) would remain that nations (not companies) compete; seeking rents from others and that the vital issue is “the ethnic competition to whom the state belongs” [Arben Xhaferi’s words]. Negotiation and responsible presentation are not present on an inter-ethnic and/or international level because they are not established on the home soil.

BALKAN CONSTITUTION MAKING

IS THERE A PECULIARITY AND WHAT IS TO BE EXPECTED?³⁶

*Krassen Stanchev, Petya Platikanova,
Institute for Market Economics*

Introduction

This report focuses on the constitutional foundations of Balkan countries. It deals with indigenous sovereigns and avoids discussion of constituent arrangement of countries and territories established by international negotiations, i.e. it is not considering constitutional frameworks of Kosovo and Bosnia and Herzegovina.

These constitutions are not necessarily common as a phenomenon or peculiar as a solution. However, we believe that the analysis of the constitutional matters would provide an insight into what a pattern of functioning democracy is likely to emerge from the diverse Balkan political establishments. It also highlights some specific features of the rule of law and the reforms in these countries. We discuss the constitutional provisions in economics and politics, which ideally would structure relatively stable social arrangements.

The objective is to find whether there are common peculiarities and what are the enduring structures of the economy and society provided by certain Balkan constitutions.

As far as we know, this is one of the first attempts to compare the Balkan constitutions in such a comparative manner. So far, the discussions on this issue were limited to academic circles with negligible influence on public debate. Although some constitutions were adopted through referenda, constitutional vision was often limited to political elites and political parties that initiated drafting. We do not know of a

³⁶ The National Endowment for Democracy has commissioned this report. Edited by Raicho Bojilov, a student at Grinnell College and an intern at the Institute for Market Economics.

NGO (or think tank) effort to analyze Balkan constitutions in a comparative perspective. Pioneering analyses and research were available from outside the region, though they have utilized substantial local expertise.³⁷

Backgrounds: Why Reflecting on Balkan constitutions?

The first reason is that a region-wide constitution making is anyhow underway or is about to take off for different reasons. The first reason is that region-wide constitutional making has been taking place in the 1990s. The crisis of 1990 started with an act regarding the constitutional status of a province in former Yugoslavia, – the dismantlement of Kosovo's autonomy in 1987-1989³⁸. It sparked migration, civic disobedience, and the seeds of ethnic conflict that eventually spread over former Yugoslavia.

Although, the recent constitution making in Macedonia is a by-product of the Macedonian crisis of 2001 and the Ohrid Agreement of August 2001³⁹, its basic principles are embedded in the original 1991

³⁷ See, e.g. the East European Constitutional Review, originally started by the University of Chicago Law School, and then sustained by the New York University School of Law and the Central European University. Mostly political parties involved drafted blueprints for new constitutions of the emerging democracies. Some individual authors proposed universal drafts (see, e.g.: *Bernard H. Siegan*, *Drafting a Constitution for a Nation or Republic Emerging into Freedom*, Fairfax, Virginia, George Mason University Press, 1994). With the emergence of constitutional crisis individual think tanks dared to promote their constitutional vision; the most typical case in point is the Federal Republic of Yugoslavia: The Institute of Strategic Studies and Prognosis in Podgorica is an active participant in the constitutional debate (see: www.isspm.org). In Belgrade, too, think tanks offered constitutional solutions (see, e.g.: *Vojin Dimitrijevic* (preface), *Constitutional Reform in Serbia and Yugoslavia*. Proposals by an independent group of experts. Belgrade, Belgrade Center for Human Rights, 2001. *Thomas Fleiner*, *Hans-Peter Schneider*, Ronald L. Watts, *Constitutional Reorganization of the Federal Republic of Yugoslavia*, Belgrade, CLDS, 2002, *Bosko Mijatovic*, *Dragoljub Popovic*, *Slobodan Samardzic*, *The Union of Serbia and Montenegro Proposal for the Constitutional Reconstruction of FRY*, Belgrade, CLDS, 2000.)

³⁸ Misha Gleny argues that Milosevic's "real aim was not to end Kosovo's autonomy" but rather to alter the federation into a unitarist state (*Misha Gleny*, *The Balkans: 1804-1999. Nationalism, War and the Great Powers*, London, Granta Books, 1999, pp. 627, 627-628). Either objective required and resulted in a non-constitutional alteration of the basic foundations of Yugoslavia, and in wars and interethnic conflicts. See also "Kosovo and Southern Serbia" by Nebojsa Covic, September 2001.

³⁹ For a detailed overview of the Macedonian constitutional amendments see Country Report for Macedonia. The author, FORUM – Centre for Strategic Research and Documentation, mentions that "the parties of the Albanians even though they were clearly against the newly adopted Constitution they based their further political life on the provisions of the Constitution and the legislative practice emerging from it".

constitution (then, Albanian members of Parliament did not vote for the constitution because of the preamble). In the Federal Republic of Yugoslavia, the issues of autonomy and federation, of sovereignty and co-existence, and of pro-democracy government machinery are already fueling a constitutional debate.

In addition, the so-called Western Balkans is on the way to implement their individual stabilization and association agreements with the European Union. Croatia is promptly catching up on most of the issues preventing her from being an equal partner in the EU integration. Most of the constitutions in the region were born either to promote nation-building aspirations or to reflect constellations of early post-communist reforms.

Romania and Bulgaria have already embarked upon the route to the EU. Constitutional arrangements here should eventually allow for free movement of capital, goods and services, including the right of foreigners to buy land.

All these processes require constitutional thinking and debate on existing constitutions.

Currently, however, there is an obvious lack of open discussion. Unfortunately, this may result in reproduction of features of existing frameworks, which are far from perfect.

Second, constitution making in the Balkans is a broader process than in the other transition countries. All ex-Yugoslav countries needed to construct their statehoods.⁴⁰ In the socialist Federal Republic of Yugoslavia, the period after the Second World War to 1989 can be described as a continuous constitution making: new constitutions appeared every decade: in 1946, in 1953, in 1963, and in 1974, with significant amendments in between (especially in 1967-1971, and in 1981).⁴¹

In comparison, Central Europe countries did not need to build

⁴⁰ This need reflected also in efforts to establish other identities - in history, language, etc. In most of these areas there was already a tradition, which we would like to avoid discussing. (On the tradition in searching language identities see: *Christian Voss*, Sprach- und Geschichtsrevision in Makedonien. Zur Dekonstruktion von Blazhe Koneski, Osteuropa, Jahrgang/HEFT 8/August 2001 (www.oseuropa.rwth-aachen.de/frame.html).

⁴¹ See for details: *Jovan Djordjevic*, The Creation of the 1974 Constitution of Socialist Federal Republic of Yugoslavia, in: *Robert A. Goldwin and Art Kaufman* (editors), *Constitution Makers of Constitution Making*, Washington D.C., AEI, 1983, p. 185, 190, and p. 213.

statehoods. They focused on the division of powers and fixing government machinery. The situation in Romania and Bulgaria could have been similar, but these countries failed to promote non-communist majorities in the first free elections of 1990. They turned to be the first to adopt entirely new constitutions because the constitution making served as a mechanism of legitimation of newly emerged political players and renamed communists.⁴² The ultimate outcome was that the communists managed to recycle their image and gain stability of party structures and voting constituencies.

Thus, in the Balkans, though for different reasons in different countries, the drafting of the constitutions coincided with the core of the real politics. Until literally few days ago, the constitutional issues of the union, respectively the dismemberment of the federation between Serbia and Montenegro dominated the politics in Montenegro and preoccupied the EU initiative in the Federal Republic of Yugoslavia, an initiative which became one of the few instances of common foreign policies of the EU⁴³. The two processes in normal conditions, however, are substantially different. The interplay between the two reduces the constitutional framework to the level of everyday politics and, hence, hampers the legitimacy of the basic law. Eventually, this raises the issue of efficient implementation of the constitutional provisions. This is especially visible in the examples of identity and sovereignty issues. Many constitutions in the region limit flexibility on ethnic issues in their

⁴² In Romania, the decision to draft a new constitution was taken after the election. In Bulgaria, this was the choice of the Round Table Talk between communists and the opposition: neither of them was confident in the elections outcome, so they agreed to hold elections for Constitutional Assembly, thus guaranteeing to either party the role of, at least, a blocking power on important (constitutional) issues with 1/3 of the seats in the legislature. Bulgarian Round Table Talks (January-April 1990) preceded in the following manner: communists and non-communists were hammering out agreements on fundamental issues – multiparty system, elections, head of state, etc., and the communist Parliament was adopting needed amendments without any argument. Other countries faced similar issues but they were resolved via “interim” design of government machinery, especially the presidency since parliaments’ balances of post-communist over ex-communist political parties were already established (see: *Andras Sajo*, *Limiting Government: An Introduction to Constitutionalism*, Budapest, Central European University Press, 1999, p. 180). The interim design of the constitution of Bulgaria was enforced between April 1990 and July 1991 and it was the communist constitution of 1971 but without the ruling role of the communist party and with multiparty elections and a president (elected by the Parliament) as a substitute of the State Council.

⁴³ Country report for Montenegro, prepared by CEDEM – Centre for Democracy and Human Rights in Podgorica, outlines political stakes of the parties participating in the debate.

concept of statehood, envisage a constituent nation,⁴⁴ ban autonomy,⁴⁵ restrict foreigners from owning land, or prohibit political representation of ethnic and religious minorities.⁴⁶ As the developments in Macedonia in 2001 and those in Croatia in 1995 have demonstrated, identity provisions may serve as “casus belli”.

Besides building nation-state political establishments and societies in transition, the Balkans had to encounter severe economic challenges. All Balkan countries (i.e. former Yugoslav countries and territories plus Romania and Bulgaria) lost (except Slovenia) more markets than any other transition country. This development prevented prompt liberalization of prices and trade (esp. imports) and, thus, decreased the pressures on domestic businesses to restructure.

Unfortunately, this development sustained attempts to gain, seek rent and prosper at the expense of the others with the help of the government. As a result, incorporation and entry barriers are more costly, the business environment is worse, and FDI is much lower than in Central Europe. Eventually, these developments were incorporated in respective constitutional and basic legal arrangements.

The third reason for studying the Balkan constitution making is the expectations related to international initiatives in the Balkans. They assume that the right political and institutional choice, taken at the right moment would make the representative democracy irreversible. Hopes arise from the expectation that the right constitutional establishment would prevent tensions in future. However, the real politics of the day prove that democratization of Serbia has little to do

⁴⁴ E.g., the Croatian Constitution says: “Croatia, the nation-state of the Croatian people and the state of other nationalities and minorities which are its citizens”; the preamble of Constitution of Macedonia used to contain quite a similar statement: “Macedonia is established as a national state of the Macedonian people, in which full equality as citizens and permanent co-existence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanies and other nationalities living in the Republic of Macedonia” (because of this preamble members of the Parliament of the Albania decent did not vote the constitution). The Bulgarian Constitution states that “the official language is Bulgarian” (Article 3), while 10% of the citizenry has the Turkish as mother tongue.

⁴⁵ E.g., Article 21 of the Bulgarian Constitution.

⁴⁶ E.g., in the Constitution of Bulgaria one may find the statement that “the traditional religion [in the country] is the Orthodox Christian congregation” (Article 13.2), and that political parties established on “ethnic, racial or religious lines” are not allowed (Article 11.4), while such parties exist *de facto* and it is almost impossible to implement this provision *de jure*.

with a provisional resolution of the status of Kosovo, and the ethnic self-determination in Kosovo does not necessarily mean a liberal democracy, protection of human rights, and non-militant “constitution making” in Macedonia.⁴⁷ International ideas about SEE post-crisis establishments rarely meet their local owners. The international ideas often deal only with specific aspects of institutional and legislative arrangements and with democratic, stability and statehood and prosperity issues as if these issues constitute separate segments of the public life.

Last but not least, the forth reason is that the future normalization of the Balkans has no other acceptable means besides fixing constitutional rules in order to provide foundations for stability. The reflection on the constitutions would help to recognize basic rules in place and constellations, which may require future improvement. Unfortunately, the international response to various Balkan crises in the 1990's did not originate from such a precautionary reflection. Such a reflection was also missing in the countries of the region. Eventually, all players were forced by the circumstances to compensate for the lack of constitutional framework.

Design and reform in constitutions

As mentioned in the regional report on the Balkan political economy,⁴⁸ the key topic for discussion about the future of the Balkans after the termination of the international mediation and assistance is what are the factors that may safeguard democracy, peace, and public order. Due to their basic nature, constitutions are, presumably, difficult to amend. The main subject of our analysis is the rules dealing with less disputable matters than national identities and statehood building issues. In addition, we would like to avoid a philosophical deliberation on nation building and the contribution of the constitution making to this process in the Balkans.

⁴⁷ As it is known, in November 2001 the Macedonian Parliament passed the constitutional amendments required by the Agreement signed on 13 August, which expanded the rights of the minorities and assured equitable representation of communities in all central and local public authorities. Arben Xhaferi, leader of the Democratic Party of Albanians, welcomed the constitutional changes, said in an interview for BBC: “We repaired the constitution and now we have to repair the mentality that created ethnic conflicts.”

⁴⁸ See Krassen Stanchev, *Balkan Political Economy: Crisis, Polity and Business*, Sofia, Washington D.C., NEC/IME, 2002, p. 31.

Methodologically, these matters are difficult to identify: the Balkans represent an example of establishing constitutional rules and reforming them. James Buchanan and Geoffrey Brennan outline the distinction between these two procedures.⁴⁹ When there are no effective preexisting rules, the choice among different rules in order to achieve certain outcomes is all that is relevant. However, when changing existing rules is at stake, i.e. a constitutional reform, then preferred rules might not actually be those in force; the design is under revision, and principles are taken for granted, so existing rules might be reexamined or simply rejected. On the other hand, existing rules are those that set procedures for revising provisions applied. The general principle applied in the research is that in order to function rules require stability: if they were continually under revision, then the results would be the poor performance of the established system of the rules.

The broad theoretical background of our undertaking is the so-called public choice theory and its by-product - constitutional economics. It was rarely applied to reflect regional peculiarities. As one can see from the analysis of the report on the Political Economy of the Balkans, the Balkans it is a region-in-making with respect to its economic development. The objective of this report is to outline the peculiarities of its constitutional background.

The flux of constitutional reforms can presumably reside in some relatively stable social institutions. Below, we undertake a review of the Balkan countries' constitutional order addressing two separate issues. We examine constitutional provisions dealing less with mentalities of national identity (in Xhaferi's words) but with institutions, such as private property rights (vis-à-vis state property and exclusive rights, e.g. "natural monopolies", natural resources), and the definition-function of government machinery (in terms of automatic functions and transfers of duties, deadlines and delays in hypothetical discontinuity of government – such as in the case of deaths - and in event of political crisis). We assume that analysis of these provisions sheds light on the status of the civil society (classic) structures: the individual, his/her property and other immediate relations.

Reflecting the Balkans, we start from the design, i.e. from the creation of the constitutional rules in terms of the Buchanan-Brennan terminology. These are the provisions that:

⁴⁹ Buchanan, J. and Geoffrey Brennan, "The Reason of Rules: Constitutional Political Economy", Cambridge University Press, 1985, 10.1.35.

- Provide for private property and freedom to engage in business.
- Regulate the movement of capital, including landownership.
- Legalize “ownership” over citizenship.
- Set the stability of the government machinery.
- Then, we discuss a constellation of provisions that fix different government machineries. The hypothesis is that these rules could highlight the political prerequisites for reforms and adjustments, as a constitutionally designed response to challenges to change.

Property rights

Property rights are supposed to guarantee the individual and civic (civil society) independence from government. They also serve as a constraint to the government. All Balkan constitutions of the 1990's give emphasis to the sanctity of property rights and promote rules that limit any government attempt to alter property rights or to interfere with their transfer. As Epstein⁵⁰ points out, property rights are not only protected when they are endangered by any physical invasion or the threat thereof, but also when holders want to transfer them legally at low costs.

Freedom from invasion

As Epstein maintains, applying constitutional rules may lower costs of defending and transferring property rights only if they reduce bargaining problems related to moving the asset to its high-valued use.

Similarly to many other post-Communist constitutional arrangements, Balkan constitutions are preoccupied with protection of property rights. (All constitutions claim to protect private property rights). According to the constitutions of Bulgaria (Article 17.1), Croatia (Article 48), Macedonia (Article 30.1), Poland (Article 21.1 and 64), Slovakia (Article 20.1), Slovenia (Article 33) and Yugoslavia (Article 51) the state protects

⁵⁰ Epstein, R. “The Public Trust Doctrine”, Public Choice and Constitutional Economics, Jai Press Inc., 1988.

not only property rights but also inherited property rights.

There are similar provisions in the constitutions of Germany (Article 14.1), but not in such a detail. Furthermore, Albania's constitution even lists the ways of acquiring property ("by gift, inheritance, purchase or any other classical means provided by the Civil Code" - Article 41.2). At the same time, although Bosnia and Herzegovina, the Czech Republic and Croatia do not stipulate explicitly that the property rights are sacred, this omission does not necessarily mean lack of such a protection.

In addition, there are many provisions that protect private property from invasion. All constitutions provide rules on the privacy of the home. The home is "inviolable" (e.g. Bulgaria; Article 33.1); it is a part of private life protected by the constitutions (Bosnia and Herzegovina; Article 3).⁵¹ The court can intervene in private property only when there are concerns that a crime was committed there (Croatia; Article 34.2). In case of a need to protect "public order or health" or "the rights and liberties of others" (Estonia; Article 33 and Macedonia; Article 26), the property rights might be violated if there is a statutory stipulation. In addition, there might be other arguments; for example, the constitution of Romania stipulates that property right might be violated in order "to defend national security or public order" (Article 27.2, 3). At the same time, the constitution of Slovakia is rather vague because the conditions, under which private property might be violated, are as follows: if this violation is "inevitable in a democratic society" and it is done to protect "lives, health, or property", or "public order".⁵²

However, there are various stipulations on the conditions that the state may divert private property rights. The state may limit or expropriate property only in "the public interest" (Albania; Article 41.3).

The famous fifth amendment of the Constitution of the United States stipulates a three-fold test for property deprivation (legal procedure, public use and just price): "No person shall be... deprived of... property, without due process of law; nor shall private property be taken for public use, without just compensation." Section 3 of the above-mentioned article 14 of the Constitution of Germany is even more

⁵¹ From all transitional constitutions only those of Slovenia and Czech Republic there are not exclusive provisions on the home inviolability.

⁵² In the Slovak constitution one can also find that if "the tasks of public officials" require that, the inviolability of the home, which is used for performing different economic activities, might not be defended (Article 21.3).

specific. “The taking of property is only permissible in the public weal. It may be imposed only by or pursuant to a statute regulating the nature and extent of compensation. Such compensation has to be determined by establishing an equitable balance between the public interest and the interests of those affected. Regarding disputes about the amount of compensation, recourse to the courts of ordinary jurisdiction is available.” The key difference between these constitutional provisions is the notions of “public weal” and “equitable balance” between private and public interest.⁵³

It seems that Balkan constitutions tend to resemble the resolution on this matter given by the Germany’s Grundgesetz. If public benefits are higher than the costs of violating property rights, then the state can limit or expropriate private property (Romania; Article 41). The state might define not only the public interest but also the needs of society and the national economy, which can justify restrictions imposed on property rights (Slovakia; Article 20). As the Macedonian constitution states, property rights impose responsibilities to be performed not only in private but also in the public interest, so they might be diverted for public interests (Article 30). The constitution of Slovenia also states that property rights must be regulated and the benefits from this regulation are supposed to be economic, social and environmental (Article 67). Bulgaria’s article 17.5 of the constitution, the only one that speaks of “forcible expropriation”,⁵⁴ refers to “state and municipal needs”, “provided that these needs cannot be otherwise met”, and refers to the law and “fair compensation”. The Yugoslavian Constitution (Article 69.3) refers to “public interest”, “fair compensation” and “market value”. Current ideas of constitutional amendments in Yugoslavia do not challenge this tradition.

Central European and Baltic constitutions are more general on the discussed matters but not very different in principle. Property rights could be infringed by law and under “appropriate compensation” (Estonia; Article 32) and/or in effect (or as a result) of a completed court decision (Poland; Article 46). The constitution of Hungary says that a piece of property might be taken only in the public interest, if there are “exceptional cases” (Article 13). In the constitution of Poland,

⁵³ It does not necessarily mean that, in the second half of the twentieth century, the notion of “public use” in the American Constitution has not been broadened to the limits of “public weal” from the quoted German provision.

⁵⁴ The Bulgarian wording has a connotation close to “compulsory” or “coercive” deprivation.

it is stipulated also that in a state of emergency there might be compensation for diverting property rights (Article 228). Here, the public interest must again guide the state in diverting property rights when rendering public services.

In the constitution of Slovakia, the state controls natural resources, which are excluded from other constitutional provisions on property rights (Article 4). In addition, property rights may be restricted if public services are rendered. However, there are also constitutional rules that provide a discretionary power of the government (Slovakia; Article 20.3): “the law will specify which property other than [the “national wealth” and waters]... is essential to meet the needs of society, the development of the national economy, and the public interest can be owned only by the state, community, or designated juridical persons.” (The issue of the so-called “national interest” is discussed separately below.)

Clearly, there is a need of further research to find how, in terms of Buchanan-Brennan interpretation, the constitutional design described above is being reformed via amendments, constitutional court interpretations, and laws applying constitutional provisions. To some extent, however, the private property provisions, as well as others in the system of a given constitution, are implemented through the integrity and complementarities of other constitutional hypotheses.

Protection of the property rights

The principle of compensation of private owners in case of state acquisition for a just compensation supposes the right of the individual to be protected from abuses of state power.

Obviously, the constitutions of the (former) Yugoslavian countries repeat the concept of a market-valued compensation when private property rights are diverted. If there is a public interest, the state violates property rights in return to a compensation that must be fair and “not lower than its market value”. Such provisions are included not only in the Yugoslavian constitution (Article 69) but also in the Macedonian (Article 30.4) and Montenegrin constitution (Article 45).

Some additional preconditions to protect private ownership are stipulated in constitutions of other transition countries. There is a requirement to be assured in advance that the needs of the state cannot

be satisfy through any alternative way (Bulgaria; Article 17.5). In addition, many constitutions envisage litigation of the government for presumed unjust compensation and violation of private property by public bodies. This is the spirit of the Albanian (Article 41.5) and Romanian (Article 41.1) constitutions. In the latter, the provision states that a complaint about the provided compensation may be “filed in court” and that the compensation “shall be agreed upon with the owner or by the decision of the court when a settlement cannot be reached”. The constitution of Estonia says that, if the property has been expropriated by the state for public interests, the court may repeal legal acts that violate property rights (Article 32.1). There may be other constitutional provisions, such as Article 120.1 of the Bulgarian constitution: “the courts shall supervise the legality of the acts and actions of the administrative bodies” (e.g. Bulgaria; Article 120.1). If not stipulated explicitly, courts may not confirm the claim against unjust expropriation.

On the balance, however, the impression from reading these constitutions in the plight of provisional applicability of property rights enforcement standards are as follows:

- a) The triple test of protection (law process, public use and compensation) is enforceable, perhaps, without any problem with respect to the latter two; it is easy to dispute the compensation but not the hypothesis of the right to give up the property;
- b) According to some constitutions, the government would be in a position to expropriate a piece of property and only after that meet any challenges in the court;
- c) The conclusions above are not characteristic neither for the Balkan constitutions nor the constitutions of the other countries in transition. The above-mentioned provisions of the German constitution speak for themselves and similar issues arise with respect to the US constitution.⁵⁵

Taxes

Taxes, as a form of government takings, may serve as a reference case in the comparison between Balkan and other constitutions. The

⁵⁵ Richard A. Epstein. Op. cit. pp. 318, 322.

conclusion is that there is nothing specific to the Balkans.

As it is stipulated in several of the examined constitutions,⁵⁶ only law (i.e. via consent of the tax payers) must levy. Albania (Article 146) and Bulgaria (Article 60.2) have almost identical provision: “any tax reductions or exemptions shall be established by law”. Retroactive or ex-post-facto laws must not be passed by the legislatures (e.g. Greece; Article 78.2 and Albania; Article 146). In the constitution of Greece it is stated that the law, which imposes taxes, shall determine the subject of the tax, the revenue, the kind of property, the expenses and transactions, or the categories thereof to which the tax relates (Article 78.1). In the constitution of Estonia, there is a paragraph, in which it is stipulated that state taxes, fees, levies, penalties, and compulsory insurance payments are imposed by law (Article 113).⁵⁷ In addition, various topics related to the budget, taxes, the financial obligations of the state, the ratification of foreign treaties, and the enactment and ending of a state of emergency may not be put to referendum (Estonia; Article 106). The rate of the tax, tax reductions, or exemptions cannot be delegated legislative authority (Greece; Article 78.4).

Property rights: free to transfer

The property rights are protected if they can be transferred legally at low costs. Most of the countries in transition have been slow to liberalize capital flows. At different stages of reforms, there have been restrictions on trade, money transfers, profit repatriation and movement of capital.⁵⁸ However, no constitution, limits international trade and capital flows. In terms of capital in-flows, say, as FDI's, countries often

⁵⁶ Albania (Article 146); Bulgaria (Article 60.1; 1991); Macedonia (Article 33; 1991); Greece (Article 78.1; 1975); Slovakia (Article 59.2; 1992); Yugoslavia (Article 64; 1992)

⁵⁷ The Estonian constitution is most specific on these matters among all transition countries. Estonia is used as a reference case in the report on the Balkan Political Economies given its advantageous position in trade liberalization, government expenditures and interference (as identified by economic freedom monitors).

⁵⁸ See, for instance: *Simon Johnson*, Private Business in Eastern Europe; *Kenneth A. Froot*, Foreign Direct Investment in Eastern Europe: Some Economic Considerations; *Dani Rodrik*, Foreign Trade in Eastern Europe's Transition: Early Results, in: *Olivier Jean Blanchard, Kenneth A. Froot, Jeffrey D. Sachs* (editors) *The Transition in Eastern Europe*, volume 2, Restructuring, Chicago and London, The University of Chicago Press, 1994, pp. 245-292, 293-318, 319-356.

implement regulations that are less restrictive to foreign investment than to domestic capital use in privatization, etc. These regulations often contradict not the letter but the spirit of respective constitutional provisions of equality of the various forms of capital and ownership.⁵⁹ Of course, the real picture differs from country to country in terms of attracted FDI and informal impediments to the inflow and outflow of capital.

Landownership

There is one common exception: the land is believed to be of supreme national value.

As already mentioned, the Bulgarian constitution maintains that “arable land shall be used for agricultural purposes only” (Article 21.2). There are other legal barriers to obtain property rights over land: constitutions ban foreigners from buying agriculture land, as it is in Bulgaria⁶⁰ and Romania (Article 41.2). In many countries, constitutions require that conditions should be further stipulated by law under which foreigners may acquire property (which makes it difficult or illegal): Croatia (Article 48), Estonia (Article; 32.3), Macedonia (Article 31) and Slovenia (Article 68.1). In Bulgaria, there is also a law on protecting land, which repeats the constitutional directive that the arable land should be used only for growing agricultural products. In fact, around 40% of the agriculture land is not used at all.

As Stefano Bianchini comments,⁶¹ all of the post-communist constitutions guarantee the right to private property. The role of the state, however, is not only to adopt legal rules but also to protect specific rights that are basic for reinforcing the national sovereignty of the Balkan countries. These rights are a part of the security doctrines. All that can be found in the constitutional provisions, in which restrictions are imposed on foreigners to own land. The state and the land are used as synonyms. The explanation for these constitutional rules, provided by Bianchini, is that for the politicians in the Balkans, the control over the land is a *conditio sine qua non* for avoiding any “semi-colonial

⁵⁹ Kenneth A. Froot, Op.cit. p. 294, 295.

⁶⁰ “No foreign physical person or foreign legal entity shall acquire ownership over land, except through legal inheritance” (Article 22.1).

⁶¹ Bianchini, Stefano, “The Idea of State in Post-Communist Balkan Societies”, In *State Building in the Balkans*. Longo Aditore Ravenna. 1998. p. 64.

status". The property rights are also related to the unresolved problem of the ethnic minorities.

The property might be obtained not only with a contract of transferring rights but also it might be inherited. In the constitutions included in the study, property rights are split from right of inheritance. In the constitutions of Bulgaria (Article 17.1), Croatia (Article Macedonia (Article 30.1), Poland (Article 21.1 and 64), Slovakia (Article 20.1), Slovenia (Article 33) and Yugoslavia (Article 51), the state protects not only property rights but also property rights if they have been inherited. The constitution of Albania lists several ways of acquiring property: "by gift, inheritance, purchase or any other classical means provided by the Civil Code" (Article 41.2). We also review other CEE and SEE constitutions. Similar provisions are included in the constitutions of countries that are not from the region (e.g. Germany; Article 14.1; 1949). Only in the constitutions of the ex-socialist Bosna and Herzegovina and the Czech Republic, it is not explicitly stipulated that the property rights are protected but the property rights if inheritance are protected as well.

"Exclusive" rights

Similarly to landownership, the restriction on free capital flows stems from exclusive government right over (natural) resources and ex-public services, i.e. monopolies that are remnants of pre-reform central planning.

We think that these exclusive rights, exercised over a sovereign territory, provide the main "incentive" to seek controls over governments and separation of territories into separate nation-states. In the report on the Balkan Political Economy, we have pointed out that "the political process of building a nation state in the mid-late nineteenth century manner, when mono-centric European alliances were presumed and conceived as territorial expansion of economic influence, is rather odd. Then, the territorial identity was perceived as a precondition of prosperity, as governments' bargaining chip to seek rents from one alliance or another. Balkan nations, then, had fallen victims of these notions, fighting several wars with one another... If in the nineteenth century it was somehow politically justifiable to fight for territorial influence on the Balkans, at the end of the twentieth it was not."

The notion of public goods (i.e. a good, which everybody uses but no

one in particular pays the total price for the use) explains the abstract (in the light of the constitutional law and economics) justification why there are certain types of activities that cannot easily be provided through market transaction principally because it is difficult, if not impossible, to restrict consumption to those who pay for the service. In reality, however, the constitution making on exclusive rights was, perhaps, more concerned with retaining government controls. In the early 1990's, across Central and Eastern Europe, it basically meant retaining position of ex-communist management in substantial sectors of domestic economies.⁶²

According to Richard Epstein, the public trust theory key assumption is that property should be subject to that form of ownership that minimizes the bargaining problems associated with moving the asset to its highest-valued use. The desirability of this system of first possession changes radically when we consider, for example, natural resource, waters, the use of navigable rivers and lakes for transportation.⁶³ In this case, any system of divided private ownership, based on first possession, tends to create bargaining and holdout problems that the institution of private property is designed to overcome. The risk is that the owner of one segment of the resource would hold out against all the others, so that bargaining breakdown will prevent any use of the resource at all for exploitation of the resource. Thus, in any event the economic sense of the exclusive government rights over resources is "only to police the rule whereby is acquired and transferred" to private parties and users with extensive administrative costs.⁶⁴

Now, we would like to discuss transition and Balkan constitutions in the light of the above-said.

We exclude the rights, which stem from the exclusivity of jurisdiction upon a sovereign territory, such as protecting national borders and implementing external policy priorities. Instead, we focus on those related to the use of and the decision about resources available on the sovereign territory.

⁶² One of the authors of this report was a member of the Bulgarian Constitutional Assembly of 1990-1991 and signed the new constitution with a special opinion on provisions on government's exclusives rights. Proceeding of this assembly prove that ex-communist members drafted and advocated those provisions, while non-communist were either indifferent or oppose them.

⁶³ See *Richard Epstein*, Op.cit. p. 319.

⁶⁴ Ibidem.

Perhaps, the most extensive coverage on these matters is provided by the constitution of Bulgaria. Article 18 lists twenty-two exclusive rights of the state and stipulates which are the monopoly rights over “railway transport, the national postal and telecommunication networks, and the use of nuclear energy, the manufacturing of radioactive products, armaments, explosives, and powerful toxic substances by law” (18.4). The state shall exercise its exclusive rights to protect and/or exploit the “continental shelf ...and the biological, mineral, and energy resources therein as well” (Article 18.2).

In Romania, “subsoil riches of any nature, ways of communication, the air space, waters with hydropower availabilities, and those which can be used for the public interest, beaches, territorial waters, natural resources of the economic zone, and the continental shelf, as well as other assets established by law” are exclusively public property (Article 135. 4). The constitutional rules of Croatia protect natural resources in exclusive provisions: “the sea, seashore, and islands, waters, air space, mineral wealth, and other natural resources, as well as land, “forests, fauna, and flora, other parts of nature, real estate, and others cultural, historical, economic, or ecological resources, which are specified by law as of public interests” (Article 52). Exclusive rights established by law may be transferred to private parties, if it is stipulated in the constitution. Only in the constitutions of Bulgaria (Article 18.5) and Romania (Article 135.5), “they [public-owned assets] may be taken over for administration by self-managed public companies or public institutions, or may be leased or granted in concession, in accordance with the law”. In the constitutions of both countries it is stipulated explicitly that the state may require certain conditions in providing rights over public property by law. In Bulgaria, the state may give rights to perform economic activities, which are its exclusive rights, not only opening a concession procedure but also regulating it with regulatory regimes (e.g. licenses).

Constitutions of Central European transition countries are not so specific; they refer to a law that should implement the rights to use natural resources. In Hungary, different economic activities, which are performed exclusively by the state, are to be set by law (Article 10). The constitutional provisions of Poland allow monopoly to be established by law; these exclusive rights are listed in the part on public finance (Article 216.3).

Similarly, although there are some exceptions, the constitutions of EU member states approach the issue from the same perspective. As it is

stipulated in the constitution of Greece, special laws determine the conditions of providing property rights over “mines, mineral waters, freely flowing and subterranean waters, and the subterranean natural resources” (Article 18.1). The exclusive property rights of the state to obtain natural resources are provided in other constitutional provisions as well: the shoals and large lakes and those relating in general to the disposition of the areas reclaimed through the draining thereof are under special protection by law (Article 18.2).

In Germany, Article 20a requires that the state, “in its responsibility for future generations”, protects the natural foundations of life...” The constitution of Spain (Article 132) provides protection of “the property in the public domain and community property” similar to the protection of private property in other constitutions. The most peculiar and similar to Balkan, especially Bulgarian, constitutions is the Portugal. Its Article 84 deals with the “Public Domain” that lists all natural resources and suggests a separate provision (84.1,f) on “other property classified as [public domain] by the law.”

In general, we think that the following observations are relevant.

- Balkan constitutions are far more concrete on outlining specific government exclusive rights than those of Central Europe, the EU or the United States. They resemble the basic laws of Portugal and Spain: the former – in terms of the concrete level of description, and the latter – in terms of outlining inviolability of public monopolies and rights on natural resources.
- As mentioned above, the very exclusiveness of the rights on natural resources, (conventionally entitled to the governments world-wide due to externality effects of their exploitation) does not necessarily require government management of those resources and does not prohibit transferability of these rights (users rights) to private parties, end users, etc. This concept justifies attention on law processes related to these rights, as it is the case with the constitutions of EU member states, Central Europe and EU. The devil, however, is in the details: irrespectively the constitutional hypothesis, laws regulating these rights can create enough hurdles to legal transferability procedures. On the other hand, the inflexibility of constitutional provisions, as it seems to be the case with most Balkan constitutions, is more likely to imply difficult and costly legal process.

- In most constitutions, the notion of exclusives is most frequently used to describe competencies with the division of powers, as it is obvious in the constitutions of Spain and Germany. The constitution of Poland specifies one “exclusive” right, to issue banknotes. The Balkan constitutions often specifically use the term in relation to natural resources and monopolies. Romanian constitution specifically mentions that resources should be used in “national interest” (see below for exact quotation).
- In the wording and visioning of Balkan basic laws on natural resources, there is a characteristic similar to the one observed by Stefano Bianchini. Resources are perceived as national “treasure” or resource. The English phrase of the Romania constitution is “Subsoil Riches”. A recent constitutional blueprint for Serbia and Yugoslavia states,⁶⁵ “*national* resources owned by the Republic of Serbia shall be inalienable” [italics – ours].⁶⁶ In a system of basic beliefs, it would mean that nations and governments handle resources, not individual companies and end users under the due process of law.

Freedom to engage in business

The constitutional order might be maintained only if there are legal rules, which protect economic rights, property rights and contract enforcement. There are many legal constitutionally introduced obstacles, some of them justified by intentions to improve the economic development of a country.

Constitutional rules might constrain free market transactions through regular regulatory control over economic activities. Such provisions are those that might impose costs of complying and especially those related to free competition.

In all constitutions, there are paragraphs that presumably protect the freedom to engage in business.

⁶⁵ The Romanian phrase of Article 134. 4 is: “*Bogatiile de orice natura ale subsolului...*”; in the available English translations the exclusiveness of public property on natural resources is not as visible as in the Romania text, which says the these are “*fac obiectul exclusiv al proprietatii publice* ».

⁶⁶ *Vojin Dimitrijevic*, Op.cit., p. 27.

Free enterprise “*per se*”

The general rule is that free enterprise is defined on a very broad (principal) level. In the constitution of the United States it is implied by the fifth and (to some extent) fourth amendments. The constitution of Germany has its famous preamble about the “*Soziale Marktwirtschaft*”. Portugal (61.1) protects the rights of free enterprise (in the framework of the constitutions, the law, and “with due account of the general interest”).

Only in the former socialist countries, there are explicit constitutional rules maintaining that the right to enterprise and the right to compete on the market are protected by the constitution. There are provisions not only about the rights to perform on the market but also about basic economic principles, which the constitution must protect. They are usually listed in the same paragraph with the economic rights. Only few constitutions stipulate that the market economy is an economic system that will be applied in the country. In some, these provisions are rather abstract; in others there is a great deal of details and possibility for diverse interpretation. In the constitution of Croatia it is even stated explicitly that foreign investors are free to do whatever they want with the profit and capital investment, including transferring or repatriating it (Article 49.5).

According to Yugoslavia’s Article 13.2, [in the republic] “economic activities shall be pursued according to the principles of a market economy”. The blueprint for a new constitution provides a new editing: “The economy of the Republic of Serbia shall be a social market economy”.⁶⁷ We think in conformity with the common constitutional vision of the Balkans and ex-Yugoslavian countries, the market principles are those, on which the economy of Macedonia is based (Article 8).

Bulgaria (Article 19.1) explicitly declares that the economy of the country is based on the free economic enterprise and states, in the preamble, that the intention of constitution makers was to “create a democratic, law-governed and social state”. However, article 19.1 has been rarely used in the debates on economic reform legal frameworks while the wording of the preamble surfaces quite often.

In the constitution of Romania, there are several paragraphs related to market economy. It is the most redundant in wording from all con-

⁶⁷ *Ibidem*.

stitutions with reviewed for the preparation of this report. On one hand, it says that its economy is a “free market economy” (Article 134.1). On the other, it requires that “the state must secure: a) a free trade, protection of law and competition, provision of a favorable framework in order to stimulate and value every factor of production; b) protection of natural interest in economic financial and currency activity; c) promotion of national scientific research; d) exploitation of natural resources in conformity with national interest; e) environmental protection and recovery as well as preservation of ecological balance; f) creation of all necessary condition so as to increase the quality of life” (Article 134.2).

If we turn now to the constitutions of Central Europe we will find, again, that they adhere to the general treatment of the subject of free enterprise.

In the constitution of Hungary, there is a paragraph, in which it stipulates that the market economy is the economic system of the country and that rights to enterprise and compete on the market are protected by the constitution (Article 9.1). The constitution of Slovakia also says that the rights to perform on the market without being constrained are guaranteed. It is declared also that the principles of market economy will be applied only if they comply with the social and environmental policy of the government (Article 55.1). These provisions resemble those of the constitution of Romania but are far less concrete. In the constitution of Poland, there is a statement that the market policy of the state will be social. The principles of this policy are based on rights to enterprise and social dialogue between “social partners” (Article 20). The Estonian constitution is rather concise in the constitutional reading of similar provisions: Estonian citizens (Article 31) “shall have the right to engage in commercial activities and to form profit-making associations and leagues;” “the law may determine conditions and procedures for the exercise of this right”; “unless otherwise determined by law, this right shall exist equally for Estonian citizens and citizens of foreign states and stateless persons who are present in Estonia.”

Competition and economic activities

The concrete approach of the constitutional interpretation presupposes that certain provisions that the state might restrict rights to enterprise.

The state may intervene on the market, if there are economic activities that do not correspond to the adopted market principles or when these activities contradict the reviewed above exclusive rights of the state.

The approach used in these constitutions implies that the government may intervene not only by imposing entry barriers but also by regulating competition and market ethics.

In the constitutions of former socialist countries, the right to enterprise is protected not only by the provisions on freedom to engage in business but also by other constitutional rules that deal with abuses of market position. These constitutional provisions are included for preventing the so-called market failures.

For instance, according to certain statements, the competition on the market may result in monopoly positions. This is a strong theoretical hypothesis. It motivates constitution maker to construct rules of organizing economic activities and protecting competition. This is the case with the constitution of Macedonia, which stipulates that the state may restrict the rights to perform on the market and may take “measures against monopolistic positions and monopolistic conduct on the market” (Article 55.2). The constitution of Bulgaria has similar provisions. It explicitly mentions that, in order to protect the rights of all entrepreneurs to perform in economic activities, “the law shall establish and guarantee equal legal conditions for economic activity to all citizens and corporate entities by preventing any abuse of a monopoly status and unfair competition and by protecting the consumer” (Article 19.2). The criteria for doing so is explained in the next provision, which deals with different hypothesis: “the law shall establish conditions favorable to the setting up of cooperatives and other forms of association of citizens and corporate entities in the pursuit of economic and social progress” (19.4).

The constitution of Croatia includes not so specific but similar provisions in, in which it is stated that the right to engage in business is protected and all forms of a monopoly are restricted (Article 49.2). In the constitution of Yugoslavia, there are a few paragraphs on free trade. Any forms of a monopoly do not comply with the constitutional provisions on the right to perform on the market without constraints, so they are prohibited (Article 74.3). In the same provision, it is stated not only that the competition shall be free but also that the right to engage in business under equal conditions is protected by the constitutional rules.

The simplest constitutional arrangement is that of Slovenia: “(1) Free

enterprise shall be guaranteed. (2) The establishment of businesses shall be regulated by statute. Any business activity in conflict with the public interest may not be pursued. (3) Restrictive trading practices and other practices which restrict free competition, as specified by statute, shall be forbidden" (Article 74). The Slovakian constitution states that the principle to be applied is that economic activities are based on free competition (Article 55.2).

Although it is difficult to extrapolate without a specific country research into specific constitutional economies, some general observations are relatively justified.

- The more specific is the constitutional interpretation of economic and business matters, the more complicated could be the implementation. The constitutions of Bulgaria and Romania exemplify this principle. The former (Article 19), besides provisional intention to level the playfield, contains different hypothesis for different market players.⁶⁸ The latter (quoted Article 134) contains hypothesis that are, if not contradictory, at least difficult to consolidate.
- As it was pointed out in the previous section of this report, although constitutional standards aim at restricting government interference in private transactions, constitutions, remain fairly protective on issues presumed as public (national, government) interests. Besides the quoted Romania's provision, these hypotheses are explicit in the constitution of Yugoslavia, though this constitution excludes the results of activities regarding the environment that may infringe other person's interest: "the industrial activities might be controlled if it is in the public interest to impose restrictions on the right to enterprise" (Article 57).
- These provisions are rather exceptional by international standards. Again, the constitutions of most Central European countries are far less specific and some of them (Estonia) provide for equal treatment of domestic and outside economic entities and investment. Balkan constitutions are either vague on this issue (Bulgaria) or imply national preference (Romania). This constellation does not necessarily mean

⁶⁸ Article 19.3 deals with this issue, it says that "investments and economic activity by Bulgarian and foreign persons and corporate entities shall enjoy the protection of the law" but it fails to differentiate between investment undertaken at own responsibility and between this protection and principle protection of property right; at the same time it does not equalize domestic and foreign entities before the law, as it is the case with the constitution of Estonia.

that either option is applied as policy mix in economic reforms. The only EU constitution with similar thinking on these matters is again Portugal.⁶⁹

Stability of the government machinery

Constitutions and crisis

Every representative democracy requires a set of rules for peaceful changes of the government. Perhaps, given the background of the region, Balkan constitutional fathers have paid particular attention to the rules of changing the government in times of a political crisis. However, it (the Balkan constitutions) does not seem very efficient in the area of real politics.

Article 99 of Bulgaria's constitution gives an opportunity for three consecutive attempts to form a cabinet in case of a failure (resignation, non-confidence vote). The first is assigned to the political faction that failed, while the head of state is almost obliged to submit the mandate to it. In addition, there is no deadline in between the attempts to form a new government, a provision that may facilitate the end of the crisis and/or opt for fresh elections. In fact, the constitution provides for a sort of a second try for the incumbents (who just resigned or deserved no confidence) to form a new executive and for endless bargaining that in principle could be repeated several times during the mandate. In reality, both scenarios happened after the adoption of the constitution, in 1992 and in 1997. The procrastinated crisis of 1992 stopped reforms and brought about ad hoc majorities in the parliament. The crisis of 1996-early 1997 was resolved only thanks (or due) to the successful attempt of President Stoyanov and the National Security Council to convince the then-incumbent socialists not to opt for a second cabinet.⁷⁰

Slovenia (Article 110 and 111) has a more comprehensive approach

⁶⁹ See Article 81 of the constitution, which list thirteen specific instances of "prime duties of the state in economic and social sphere".

⁷⁰ The constitutional option of Bulgaria during political crisis has been a subject of reflection by international scholars. Andras Sajó have recently noted that: the constitution of 1991 "invest the president, who has almost no formal power, with the legitimacy of a directly elected president..."; the term in office is longer than those of the legislature – five years; this "increased legitimacy strengthens the president's role in protecting the constitutionalism, and as such, it is neither superfluous nor destabilizing", and, in reality, it was necessary "to solve the political crisis that occurred in 1997." (*Andras Sajó, Limiting Government: An Introduction to Constitutionalism*, Budapest,

to form a cabinet in terms of a crisis: it sets a deadline of fourteen days for a second attempt to elect a new prime minister, and specifies how many members of the Parliament should propose a candidate, equalizing the right of the president and elected deputies in selecting a cabinet. In case of a failure, the legislature is to be dissolved by the president, but there is a new, forty-eight hours option that “the National Assembly decides by a majority of votes cast by those deputies present to hold new elections for President of the Government, whereby a majority of votes cast by those deputies present is sufficient for the election of the candidate”. In this case, during the “new elections a vote is taken on candidates individually in order of the number of votes received in the earlier voting and then on the new candidates proposed prior to the new vote, wherein any candidate proposed by the President of the Republic takes precedence”.

There are clear deadlines in case of confidence and no-confidence votes, and the president may require a no-confidence vote; if in the latter case the newly proposed cabinet “does not receive the support of a majority vote of all deputies”, the parliament “must elect within thirty days a new prime minister,” “in a new vote express its confidence in the incumbent”, or “failing this, the President of the Republic dissolves the National Assembly and calls new elections.” The president may “tie the issue of confidence to the adoption of a law or to some other decision in the National Assembly”; “if such decision is not adopted, it is deemed that a vote of no-confidence in the Government has been passed” (Article 117).

Before the recent amendments, the constitution of Croatia did not contain the hypothesis that the president is, among other thing, a mortal human being. In the period preceding the elections of 2000, Romania had been twice brought to the verge of a constitutional crisis due to the fact that the constitution does not contain an indisputable mechanism for replacing the prime minister. However, this omission did not prevent a development that allowed President Constantinescu and the chaotic parliamentary majority to replace two heads of the cabinet and to reshuffle a number of times key ministers. Romania’s (Article 89) constitutional mechanism of crisis is not very specific in principle: “after consultation with ... both Chambers and the leaders of

Central European University Press, 1999, p. 180. Bulgaria constitutional imperfection (Article 99) in time of political crisis is the lack of deadlines, which may lead to costly procrastinations of the crisis and abuse of power. (One of the authors of these lines signed this article with a special opinion).

the Parliamentary groups, the President of Romania may dissolve Parliament, if no vote of confidence has been obtained to form a government within 60 days after the first request was made, and only after rejection of at least two requests for investiture.” The president does not have the right to dissolve the legislature twice in one year, and he or she cannot do so “during the last six months of the term of office of the President of Romania, nor can it be dissolved during a state of siege or emergency” (89. 2 and 3).

In his country report on Serbia, Vojin Dimitrijevic identifies a common phenomenon for most of the Balkan countries: “A serious weakness of the parliamentary system is the fact that under the existing election laws deputies represent their own parties and not voters directly, so that the link between the electorate and the parliament is lost and there exists loyalty to parties and their leaders, rather than to voters” (p. 12) Vojin Dimitrijevic also finds that there is a crisis rooted in the Serbian parliamentary system which stems from internal diversities in the ruling majority faction (p. 12-13). Prof. Sinisa Rodin considers that this conclusion can be applied easily to Croatia as well. We think this situation resembles the situation in many countries that have first democratically elected parliament in many countries, such as Bulgaria, Poland and Czech Republic.

Although very few of the Balkan constitutions deal with a political crisis necessitated by a failure to adopt a budget, such a fiscal inefficiency, however, is a key hypothesis in the case of Poland (Article 225). In Croatia, the President of the Republic may dissolve Parliament if the national budget is not adopted within 120 days after the budget bill was submitted by the government (Article 104). Romania’s (Article 137), Slovenia’s (Article 148) and Yugoslavia’s constitutions (Article 82) have similar provisions.

In Macedonia, the executive cabinet resigns in case of ordinary hypothesis (vote of no-confidence, it has submitted its resignation, expired term in office due to expired term of the legislature, and its dissolution) but “remains on duty until the election of a new Government” (Article 93). It does not list any specific occasion (e.g. passing the budget) that would require a confidence procedure and it does not specify the role of the president in a case of coinciding resignation and dissolution of the parliament.

Adopted after the statehood crisis of 1997, the Albanian constitution is probably the most specific on these procedures. Articles 87, 90, 91, 96, 104 and 105 envisage five failures (reoccurring in a one-week

time) of the legislature to elect a council of ministers, a repetition of this failure after fresh elections, procedures to impeach the head of state for “serious violations of the constitution”, three reoccurring in periods of 10-day failures of the parliamentary majority to vote the prime-minister, and two 15-day-attempts of the majority to elect a prime minister in an event of non-confidence.

The Federal republic of Yugoslavia (articles 82-84, 97-98 and 103-104) provides interestingly designed procedure to tackle a political crisis on a federal level by the legislature “shall be dissolved at the request of the federal government” (article 83.1), but this development may not happen if “if the procedure for a vote of confidence in the federal government has been initiated” (article 83.2).

Constitutions and emergencies

The government may alter economic or political rights in certain conditions: in the state of war, in the state of emergency or in the state of natural disasters. In these circumstances the rights protected by the constitution are different. The constitutional rights that could not be limited even in the state of emergency or in the state of war are those rights related to human life, such as the right to access to justice and a fair trial.

In the constitution of Poland, these rights are protected in the provisions on private life and court trials (Article 233). In the constitution of Estonia, there is a similar paragraph on the rights, which may not be restricted even in a state of emergency; the welfare rights granted by the state are among these rights (Article 130). However, there are constitutional rights, which are not preserved if there are natural disasters. In the constitution of Poland, it is stated that the rights that may be violated in such cases are the rights to perform economic activities and to obtain property, as well as rights to strike and work (Article 233.3). There are similar provisions in the constitutional rules of Albania.

Although not very comprehensive in envisaging different developments in a case of government crisis, all Balkan constitutions contain special provisions on the state of emergency. In Croatia, the constitutional rights that could not be restricted by the government could not be the rights to life, express thought or religious beliefs, or the right to a fair trial (Article 17). In Macedonia, the human rights, which are inviolable, are the right to life and a fair trial (Article 54.4). The constitutional

rules of Slovenia and Bulgaria also protect several rights in the state of war or in the state of emergency (Article 16.2 and Article 57). The rights respected in all instances are the rights to express thoughts or religious beliefs.

The constitution of Albania is the most specific in these matters. There is a separate part on the extraordinary power of the government in the state of war, the state of emergency and natural disasters (Part XVI, Articles 170-176). If the government shall decide on “extraordinary measures”, then it shall apply the “principles of operation of public organs, and the extent of the restrictions of the human rights and freedom” which are set by law (Article 170.2). The law defines the conditions, under which the government might provide in restoring “normal functions” of the state. It is stated that extraordinary measures, which the government may take, must correspond to the level of the risk faced (Article 170.4). Emergency statutes protect the rights that the state may not alter. Property rights and other rights that are related to the different economic activities on the market, such as the right to work (Article 175.2) are among the rights that may be restricted by the constitution.

All these provisions are quite typical for the constitutions of European transition countries. Constitutions of the EU member states are far less concerned with the cases of emergencies. Although in the constitution of France, for example, there is a paragraph on the state of emergency; it is not stated explicitly, that the rights protected by the constitution may be violated if not possible to prevent this development. The procedural problems related to the state of emergency are also discussed in the constitution of Germany (Article 81.3). Similarly, the Spanish constitution has several provisions on the rights that may be altered by the state if the constitutional principles may not be applied in the state of emergency or war (Article 55).

The constitutional system cannot be separated from the political system. It determines the structure of government powers and private rights and the processes whereby these powers and rights are altered. In the American constitutional studies, there is a term for those constitutional rules, which have been applied during national emergencies⁷¹. The “crisis” constitution rests on a broad ideological base. It is more or less normal that, if there are national emergencies,

⁷¹ Higgs, Robert. *Can the Constitution Protect Private Rights During National Emergencies?* Public Choice and Constitutional Economics. Jai Press Inc., 1988

the institutions have different rules than the usual rules. Then, the principles prescribed in the constitutions would not be valid if there were no constitutional constraints on the expected abuse of political power during national emergencies. The peculiarities of the Balkan constitutions in this respect may be summarized as follows.

- Balkan constitution might be defined as “crisis constitutions” but in a very specific sense. They are less specific, or at least there are significant omissions, in dealing with instances of a political crisis. At the same time, they are thorough in prescription of government actions in case of emergencies. The least efficient mechanism to resolve political crisis— the Albanian, is supplemented with the most extensive list of emergency actions.
- Election systems are a key to constellations in political crisis. Balkan countries, as most European countries, vote in general elections for party lists. This peculiarity laid the foundations for a centralization spin-off towards the incumbent prime ministers who, by tradition, are also heads of political parties that gain a majority. Thus, as heads of both the cabinet and political party leaders, they control parliaments. Although these spin-offs are mitigated by the direct elections of the presidents, the presidential powers in the day-to-day management of the country are diminished. The case in point here is Bulgaria, but by constellation most countries, perhaps by incident, have identified similar solutions while others may face constitutional difficulties in sustaining efficient government machinery. E.g., Albania elects its president (by a?) via 2/3-vote of the elected representative in the parliament, but as a head of the state he/she performs functions that lift him or her above partisan relationship. But, vice-a-versa, in a parliament dominated by a sizable majority, it could be expected that a dual executive could emerge, as has happened in Russia, Kazakhstan, Kyrgyzstan, Georgia, and Belarus.

What is peculiar about Balkan constitutions?⁷²

- Balkan constitutions are very specific, with extensive coverage of the topics related to the protection of property rights. This characteristic is a relatively common feature of many post-Communist constitu-

⁷² This part of the report is to be substantially revised due to ongoing consultations with political scientists and lawyers from other Balkan countries.

tional arrangements. Former socialist countries intend to both guarantee against coercive oppression of individual liberties and define as explicitly as possible constitutional rules that establish the right to enterprise and the right to compete on the market.

- The peculiarity, however, is that the Balkan countries have a less systematic approach to individual property rights and entrepreneurship than the United States and the countries of the EU. Often, they are also more specific, even redundant, in dealing with these matters than the constitutions of the Central European countries and the Baltic States, particularly Estonia. The triple test of protection (law process, public use and compensation) is, perhaps, enforceable without a problem with respect to the latter two; it is easy to dispute the compensation but not the hypothesis of the right to give up the property. According to some constitutions, the government would be in a position to expropriate a piece of property and only after that meet any challenges in the court.
- The extensive provision for private property rights seems not to make a difference in practice. Even the Balkan reform leaders, Bulgaria and Romania, which are the only countries benefiting from their international status with respect to the EU accession, lag far behind Central European emerging markets and democracies. These economies seem less flexible in terms of capital mobility, and, perhaps, there are constitutional foundations for the current situation. There are different stipulations on the conditions, under which the state might divert private property rights. "It may limit or expropriate property only in "the public interest. In addition, most of the countries in transition have been slow to liberalize capital flows. At different stages of the reforms, there have been restrictions on trade, money transfers, profit repatriation, and movement of capital. However, no constitution explicitly limits international trade and capital flows. Balkan constitutions are far more concrete on outlining specific government (state) exclusive rights than those of Central Europe, the EU or the United States. The inflexibility of constitutional provisions on these exclusive rights, as it seems to be the case with most Balkan constitutions, is more likely to imply difficult and costly legal process. In most constitutions, the notion of exclusives is most frequently used to describe competencies with division of powers, as in the constitutions of Spain and Germany.
- We think that these exclusive rights, exercised over a sovereign territory, provide the main "incentive" to seek controls over govern-

ments and separation of territories into separate nation-states. In the wording and visioning of Balkan basic laws on natural resources, there is a characteristic similar to the one observed by Stefano Bianchini. Resources are rather perceived as national “treasure” or resource. Similarly to landownership, the restriction on free capital flows stems from exclusive government rights over (natural) resources and ex-public services, i.e. monopolies that are remnants of pre-reform central planning. These provisions are rather exceptional by international standards. Again, constitutions of most Central European countries are far less specific and some of them (Estonia) provide for equal treatment of domestic and outside economic entities and investment. Balkan constitutions are either vague on this issue (Bulgaria) or imply national preference (Romania). This constellation does not necessarily mean that either option is applied as policy mix in economic reforms. The only EU constitution with similar thinking on these matters is the Portuguese.

- Although it is difficult to extrapolate without a specific country research into specific constitutional economies, some general observations are (relatively) justified. The more specific is the constitutional interpretation of economic and business matters, the more complicated could be the implementation. The constitutions of Bulgaria and Romania exemplify this principle/claim. The former (Article 19), besides provisional intention to level the playfield, contains separate hypothesis for various market players. The latter (quoted Article 134) contains hypotheses that are, if not contradictory, at least difficult to consolidate. The constitutional standards aim at restricting the government interference in private transactions but remain fairly protective on issues presumed as public (national, government) interests. Besides the quoted provision in the Rumanian constitution, these hypotheses are explicit in the constitution of Yugoslavia, though the constitution does not deal with the result of activities related to the environment that may infringe other people’s interest: “the industrial activities might be controlled if it is in the public interest to impose restrictions on the right to enterprise” (Article 57).

- Balkan constitution might be defined as “crisis constitutions” but in a very specific sense. They are less specific, or at least there are significant omissions, in dealing with instances of political crisis but rather thorough in prescription of government action in case of emergencies. The least efficient mechanism to resolve a political crisis, the Albanian, is supplemented with the most extensive list of emer-

agency actions. Election systems are a key to constellations in a political crisis. Balkan countries, as most European countries, vote in general elections for party lists. Thus, the proportional representation of voters laid foundations for a centralization spin-off towards the incumbent prime ministers who, by tradition, are also heads of political parties that gain majority. As heads of both the cabinet and political party leaders, they control parliaments. Although these spin-offs are mitigated by the direct elections of the presidents, the power of the president in the day-to-day management of the country is diminished.

- Perhaps, the explanation of the observations above is rooted not the historical tradition but in the immediate background of the constitution making. What matters in all countries is the history of the 1980's. This development is obvious in the events that preceded the dismemberment of former Yugoslavia. In Romania, the 1980's were the years of both extraordinary economic hardships and the sclerotic outcry of outgoing dictatorship. Bulgaria had a rent seeking position between East and West in the 1980's: its industry was recycling subsidized raw materials and energy from COMECON, selling them out on the international market, and with the price difference imported hi-tech (COCOM-embargoed) back to the East. At the same time, the government was borrowing at full speed from London Club members. The beneficiaries of those "transactions" led the reforms in the communist party. Albania went through the legitimization of the new political establishment after 1992.

What is to be expected?

With respect to the relations between the EU and the Balkans, there are obvious parallels between Balkan constitutions and the Portuguese⁷³. However, an analogy is no evidence. Economic background is arguably there. What helped Portugal is the integration of the country into the larger constitutional and market framework of the EU. The Balkans has this prospect but at different time and with different conditions. They have diverse paths towards the EU and in general relatively bleak image. Left on their own, the individual countries' constitutional design will not provide for gradual improvement. What matters is the competition among various countries to set options for brighter future of their populace. Market prices are denominated in euro, and the European currency serves as a reference currency, while

⁷³ See Articles 61.1, 80, 81, 84, 87.

trade gravitates towards the EU; similarly, the peoples and political establishments also gravitate towards the EU. There is no cause and effect mechanism: it is simply where the opportunities are.

- The rule of law, as it is embedded in the constitutions, does not provide for an efficient and equitable treatment of different forms of property and for an individual to be protected from state takings. This constitutional lack of equality before the law is likely to support collectivistic attitudes, which can easily be justified by misinterpreting history and recent bitter memories into nationalism and/or statism. If constitutions provide for some stable social (civic and economic) structures, these structures are those related to collectivistic attitudes and aspirations.
- The constitution making in the Balkans for the time being follows the chain of events. This was the case with Bosna and Herzegovina, with Macedonia, with the redrafting of the union between Serbia and Montenegro, with the constitution making of all ex-Yugoslav states, and with constitutional legitimization of the political establishments of Bulgaria and Romania. The proactive constitutional vision is a part of the solution. Naturally, it takes time.
- At the same time, these notions of the existing constitution design in the Balkans do not compose any substantial peculiarity to that of other transition economies. On average, Central European and Baltic states represent more concise constitutional models, but it is likely that what matters is the political constellation and inclusion in the orbit of comprehensive reforms. The case in point is Estonia, which gradually reached top levels of integrity and economic freedom according to all available international indexes. Estonia is a country that, along with the Baltic region, had to rebuild the statehood, reorient its economic gravity, and break the chains of the past fifteen years. The difference is that the Balkans did not have supra-regional power to reject its development from.

Comments from Balkan experts:

Albania: *Zef Preci, Albanian Center for Economic Research and Ilir Panda, former Minister of Justice*

In my opinion the written material is of an acceptable level, especially as it concerns with the constitutional rules in the Balkan constitution making, the factors which influence these rules, which should be more or less equal for all the Balkan's countries and these are related to the private property and the freedom to engage in business, capital flows including even that of the land ownership, the legalization of the so-called property on the citizenship, the stability of the government machinery.

Effectually, this written material does not only make comparison between Central and Eastern Europe Constitutions, but it also makes some suggestions on the constitutions of consolidated European countries. What impresses me most is the fact that it is still not paid the right attention to the Albanian Constitution and, furthermore, some laws, which explain the constitutional ideas and concepts, are not made evident.

Let's talk about the land ownership: In fact it is given only a peculiarity of the Albanian constitution, which list the land acquiring ways, which are those foreseen by the Civil Code. It should be mentioned that in the part on the protection of property rights, amazingly, both Albania and Romania are taken as negative examples, citing here the written material, where it is stated that "Many estimated government actions imply an unjust compensation and a violation of the private property by the public" This is the spirit of the Albanian constitution (article 41.5) and of the Romanian constitution (article 41.1). Personally I don't think it is right, because the article 41.5 of the constitution foresees the solution of conflicts related to the extent of compensation in the court. Lets go through these two concepts: If we make a comparison between the Albanian constitution in force and the law on the expropriation in public interest, and the main constitutional provisions and the previous law on the expropriations, there is a difference in concepts. The main constitutional provisions had foreseen the full compensation in cases of expropriation, while the actual constitution foresees a just compensation. In the article 41.4 the main previous constitutional provisions had foreseen the solution of conflicts in the court, even in cases of expropriation of the owner, while the constitution and the

actual law on expropriation foresees the solution of the conflict related to the extent of compensation only in the court. Thus, if settled by the public organs, the expropriation is compulsory and the court could examine only the complaint that the citizen makes, in relation to the amount of the compensation. But, what is important, is that practice and theory of the Albanian justice accept already the triple test on the protection, which is based on the fifth amendment of the American constitution and which is the legal process, the property use for public interest and the compensation. The Albanian legislation, hence, the constitution and the law on the expropriation for public interest, foresee these three aspects of the protection test.

Also, if we further continue with the material, we see that some important issues are not, intentionally or non-intentionally, considered. I cannot personally tell which, in fact, are arranged by the Albanian constitution. In the land ownership is mentioned only the land acquiring way according to the Civil Code, which is continuously called specific for Albania. In fact, Albanian legislation despite the constitution, include or has also some other laws, which are related to the property or exactly to the land ownership acquiring way by foreigners, through the investment of, at least, the tripled value of land. While for the agriculture land is not foreseen to be transferred to foreigners and maybe it is not a right estimation, because of little area of land that Albania has. Nevertheless, this is an issue that deserves to be discussed.

In the exclusive rights where public services are mentioned, natural resources are considered as states monopolies. The problem of the open strategies that Albania has, regarding these strategic properties, is not at all mentioned. Also, no recommendations are made in the Albanian legislation and constitution, concerning the tax issues and the guarantee of the free activity and business.

In the last part where the stability of the government machinery is estimated, it is mentioned that the Albanian constitution approved after 1997' crisis foresees a specific formula in case of institutional crisis either for the Council of Ministers or for the president. But it is just that. You already know how many discussions are hold about this subject. Anyway, I think that the Albanian constitution practice would improve it more.

Regarding the emergency cases, there is not any peculiarity. Albania has passed emergencies, which have not been so problematic for the nation, or for the government.

Croatia: Siniša Rodin, University of Zagreb ⁷⁴

I will present my commentary in three points. First, I will hint some methodological observations. Second, I will deal with certain issues of legal and political environment which in my opinion have to be taken in consideration in this constitutional debate. Finally, I will comment upon particular propositions exposed in the paper.

1. Methodology

My main methodological observation is that authors heavily rely on descriptive contents of relevant Constitutions. Authors are aware of this problem; ⁷⁵ however, being aware of it does not bring about its solution. Many constitutional issues can be understood only in action, and descriptive approach can not replace practical evidence. Descriptive approach creates a problem of overgeneralization. Though may or may not be true that certain constitutions guarantee private property, these guarantees may well prove to be inefficient or to use German term, be in *Leerlauf*.

Second, authors refer to public choice theory as their broad theoretical underpinning. While this is completely legitimate position it would not hurt to approach the problem from other sides too, e.g. by introducing institutional analysis, or law and society critique. This is more appealing in light of social and institutional considerations that authors express, as well as in light of the fact that post-totalitarian elite of analyzed countries were concerned with institutional arrangements rather than with economic efficiency.

2. Legal and Political Environment

I can easily agree with authors that constitution-making in analyzed states often had to do with state-building. This understanding has,

⁷⁴ Professor of Constitutional Law and Jean Monnet Module on European Law, University of Zagreb, Faculty of Law, Fulbright Fellow and Visiting Scholar at Harvard Law School

⁷⁵ See page 71: "There is a need of further research to find how, in terms of Buchanan-Brennan interpretation, the above-described constitutional design is being reformed via amendments, constitutional court interpretation and laws applying constitutional provisions."

however, several consequences that are detrimental to mainstreaming of respective legal orders of these states. At the first place, legal culture in these states does not perceive Constitution as legal document, what in turn makes definition and protection of individual rights more difficult. For example, in post-Yugoslav states judiciary is not accustomed to applying the Constitution directly. In this sense, Constitution has little to do with changing legal positions of individuals.

However, these constitutions do not operate in vacuum, but in a specific European context. For example in 1990, public opinion in Croatia was driven by pro-European sentiment and the same drive influenced the 1990 Constitution, more particularly its openness to rules of international law, concept of constitutional rights, etc. However, in practice, post-communist bureaucracy and judiciary often misinterpret the Constitution due to what I would call post-communist inertia. So constitution is stretched between its original intent and conservative legal culture. It is precisely the legal culture that informs the contents of the Constitution. I suspect similar is true in other states in the region. Yet this culture is exposed to European and global influences and subject to change. Therefore it has to be calculated as part of the analysis.

Legal culture of post-communist states is generally characterized by “legislative optimism” by which I mean the widespread conviction that changes in black-letter law are the main and decisive contributor to legal reform. As consequence, there is no development of customary constitutional law nor understanding that constitutional custom matters. This, in turn, creates drive for frequent constitutional amendment and destabilizes the system. It also switches political priorities from policy-making to coalition-building in order to generate majority that would make constitutional amendment possible. It is to certain extent paradoxical that drives for national stability originate from outside political system, primarily from the European Union, while destabilizing drive originates from within.

Incompetence of political elite is another problem. Drafting a democratic constitution is one thing, living it up quite another. Post-communist political elites and policy makers often have communist education background, they were educated within framework of rigid and hermetic communist schemes and have little or none experience with democratic process. As consequence, communist methodology of governance has survived demise of communist ideology. I can also subscribe to

Dimitrijević's proposition at p. 17, adding that in Croatia, for example, monopoly of one party evolved into partitocracy that is threatening to lock civil society out of political process and to devoid constitutional institutions, such as Parliament or Constitutional Court of their constitutional role.

3. *Particular comments*

- “Most of the constitutions in the region were born either to promote nation-building aspirations or to reflect constellations of early post-communist reforms.” This seems to be too narrow description. Legitimization function should not be underestimated. Maybe it was intention of the political actors who actually designed these constitutions, but in broad political terms Constitutions were legitimized by wide popular support for social and economic reform. There is, however, a question whether these expectations were actually betrayed by political elite.
- I would propose that protection of individual rights and minority rights is *sine qua non* legitimacy. However, “constituent nation” problem is often misinterpreted. There is no understanding in Croatia (and I would suspect elsewhere) of difference between ethnicity and nationality. While in former Yugoslavia all constituent ethnic groups were granted equal protection which can be compared to privileges and immunities clause of the US XIV amendment, or non discrimination principle in the EU, there was only one nation (nation state) which was Yugoslav. Following independence of Yugoslav constituent republics, “ethnic privileges and immunities” were understood as acquired rights and projected on constitutional level as claim for “constituent nation status.” This was made instrumental to territorial claims.
- Croatian Constitution in fact guarantees property rights. In fact inviolability of private property is one of the fundamental constitutional values entrenched in Art. 3 of the Constitution.
- Issue of “exclusive rights”. This concept is indeed somewhat vague. It seems to refer to monopolies, government control of certain industries, natural resources, and public property, such as sea shore

etc. While I recognize importance of transition from government control to public regulation and/or privatization, I am not sure whether it is productive to mix such different concepts as monopolies and public goods. However, I would note that there is a question whether such extensive government control over resources is self-correcting. There is a little systemic incentive for political elite to give up their control instead of seeking rent. This is one of areas where needs of harmonization of national law with *acquis communautaire* will obviously play role.

For market principles under Croatian Constitution see Art. 49.

- Dimitrijević's observation can be easily applied to Croatia too. Under Art. 103 of Croatian Constitution, President of the Republic may dissolve Parliament if budget is not adopted within 120 days after the budget bill was introduced by the Government

Macedonia: Zoran Jacev, FORUM

The Constitutional model of the Republic of Macedonia is based on a combination of different solutions from existing models in other countries with longer democratic tradition, combined in a way to take in consideration the specifics of the country.

The Constitution is designed in a way to ensure balanced share of the power among the Parliament, the President and the Government and balanced share of the executive power between the President and the Government.

Macedonian Constitution defines the country as a parliamentary democracy with the elements of semi-presidential system, with high level of competencies of the Government, shared in the field of international relations and defense with the President.

The Assembly (Parliament) of the Republic of Macedonia

The Assembly of the Republic of Macedonia is a representative body of the citizens and the legislative power of the Republic is vested in it, composed of 120 to 140 Representatives and has the following competencies:

- adopts and changes the Constitution;
- adopts laws and gives the authentic interpretation of laws;
- determines public taxes and fees;

- adopts the budget and the balance of payments of the Republic;
 - adopts the spatial plan of the Republic;
 - ratifies international agreements;
 - decides on war and peace;
 - makes decisions concerning any changes in the borders of the Republic;
 - makes decisions on association in and disassociation from any form of union or community with other states;
 - issues notice of a referendum;
 - makes decisions concerning the reserves of the Republic;
 - sets up councils;
 - elects the Government of the Republic of Macedonia;
 - elects judges to the Constitutional Court of the Republic of Macedonia;
 - carries out elections and discharges judges;
 - selects, appoints and dismisses other holders of public and other office determined by the Constitution and law;
 - carries out political monitoring and supervision of the Government and other holders of public office responsible to the Assembly;
 - proclaims amnesties; and
 - performs other activities determined by the Constitution.
- In carrying out the duties within its sphere of competence, the Assembly adopts decisions, declarations, resolutions, recommendations and conclusions.

The President of the Republic of Macedonia

The President is one of the two pillars of shared executive power in the country and, due to the way he/she is elected (elected in general and direct elections, by secret ballot) has relative high level of independence in conducting his competencies. The President has two main competencies:

- he is representing the country and
- he is Supreme Commander of the Armed Forces

Within that two main fields of competencies, he/she:

- nominates a mandator to constitute the Government of the Republic

of Macedonia;

- appoints and dismisses by decree ambassadors and other diplomatic representatives of the Republic of Macedonia abroad;
- accepts the credentials and letters of recall of foreign diplomatic representatives;
- proposes two judges to sit on the Constitutional Court of the Republic of Macedonia;
- proposes two members of the Republican Judicial Council;
- appoints three members to the Security Council of the Republic of Macedonia;
- proposes the members of the Council for Inter-Ethnic Relations;
- appoints and dismisses other holders of state and public office determined by the Constitution and the law;
- grants decorations and honours in accordance with the law;
- grants pardons in accordance with the law; and
- performs other duties determined by the Constitution.

The Government of the Republic of Macedonia

The Government is the main pillar of the executive power in the country and has almost all competencies in executive power except the ones that exclusively belong to the President. The Government has the following competencies:

- determines the policy of carrying out the laws and other regulations of the Assembly and is responsible for their execution;
- proposes laws, the budget of the Republic and other regulations adopted by the Assembly;
- proposes a spatial plan of the Republic;
- proposes decisions concerning the reserves of the Republic and sees to their execution;
- adopts bylaws and other acts for the execution of laws;
- lays down principles on the internal organization and work of the Ministries and other administrative bodies, directing and supervising their work;
- provides appraisals of drafts of laws and other acts submitted to the Assembly by other authorized bodies;
- decides on the recognition of states and governments;

- establishes diplomatic and consular relations with other states;
- makes decisions on opening diplomatic and consular offices abroad;
- proposes the appointment of ambassadors and Representatives of the Republic of Macedonia abroad and appoints chiefs of consular offices;
- proposes the Public Prosecutor;
- appoints and dismisses holders of public and other office determined by the Constitution and laws; and
- performs other duties determined by the Constitution and law.

Balance of power among the Parliament, the President and the Government

In order to achieve the balance of executive power sharing in the country, Constitution provides mechanisms of interrelated limitation of the power for both subjects - the President and the Government.

The mechanisms of limitation of the power of the President are:

- he/she doesn't have the right to propose the laws to the Parliament;
- he/she doesn't have any authority over the budget of the country;
- he/she doesn't have full independence in international relations and the security issues;
- he/she doesn't have freedom regarding the mandate for constituting the Government - he/she is obliged, within 10 days of the constitution of the Assembly, to entrust the mandate to a candidate from the party or parties which has/have a majority in the Assembly;
- President of the Republic's answerability (impeachment) can be initiated by the Assembly with a two-thirds majority vote of all Representatives;
- he has an obligation to address the Assembly on issues within his/her sphere of competence at least once a year

The President has special competencies during the state of war and state of emergencies and during those conditions, if the Assembly cannot meet, he has many aspects of the competencies of the Assembly:

- If the Assembly cannot meet, the decision on the declaration of a state of war is made by the President of the Republic who submits it to

the Assembly for confirmation as soon as it can meet.

- If the Assembly cannot meet, the decision to establish the existence of a state of emergency is made by the President of the Republic, who submits it to the Assembly for confirmation as soon as it can meet.
- During the state of war, if the Assembly cannot meet, the President of the Republic may appoint and discharge the Government, as well as appoint or dismiss officials whose election is within the sphere of competence of the Assembly.

On the other hand, he has and instruments to influence the Government and the Parliament:

- he/she has the right of veto, which is a soft or corrective one, only for the laws which are adopted by common majority of MP, but not for the ones which are adopted by two thirds of the Members of Parliament;
- he/she is chairing the National Security Council (consisted of President of the Parliament, President of the Government, Ministers of Defense, Interior, Foreign Affairs plus three members appointed by the President) and makes policy proposals to the Assembly and the Government regarding the issues of the security and defense of the Republic;
- he/she appoints and dismisses the Ambassadors of the Republic of Macedonia abroad;
- he/she has the right to propose to the Parliament for election judges of the Republican Judicial Council;
- he/she has the right to propose to the Parliament for election two out of nine judges of the Constitutional Court of the Republic of Macedonia;

The Government has almost all of the prerogatives of the executive power in the country but the Assembly has mechanisms to control it:

- the Assembly elects the Government and has the right to initiate the procedure of voting the confidence with one half plus one vote of the Members of the Assembly;
- the Assembly is has a control over the activities of the Government through the Committees in the Assembly and multilevel procedures of adoption of the Laws;
- the Assembly has the right to initiate the procedure of interpellation for the Ministers and other office-holders;

- Members of the Assembly has the right to ask answers from Ministers and other office holders from their field of competence in Q&A regular sessions of the Assembly.

The Government, also as the President has a special competencies in the state of war and state of emergencies:

- During a state of war or emergency, the Government, in accordance with the Constitution and law, issues decrees with the force of law.
- The authorization of the Government to issue decrees with the force of law lasts until the termination of the state of war or emergency, on which the Assembly decides.

Conclusions and recommendations

Although the theoretical model of Macedonian Constitutional system seems a nice combination of other systems, during ten years of independence and especially during the crisis it is clear that there is need for the improvement of some of its aspects.

The general conclusion is that the system provides possibilities for high level of politisation - high level of influence of the leadership of the political parties and the Government over the Assembly. Sometimes, the Assembly acts like the voting machinery of the Government and the leadership of the major political parties in power, even disrespecting national interest.

Also, the practice showed that there is no clear division of the competencies in the field of international relations and defense between the Government and the President, basically because there is no Law on the competencies of the President.

In order to achieve better division of power in the Republic of Macedonia there is a need for adoption of laws, which can:

- contribute to more clear division of power and clarifying the competencies of the Government and the President
- decrease the level of influence of the ruling political parties, Members of the government and other office-holders over the Assembly
- regulate the conflict of interest which is the base for the influence of the executive power over the Assembly
- ensure higher level of independence and responsibility of the Members of the Assembly.

The Constitution provides enough space for that kind of regulation

and there is no need to do changes in it in that respect.

Macedonia: Prof. Ljubomir Kekenovski, Faculty of Economics

Property rights

1. Re: the property rights formula in Macedonian constitutions, stipulated in Article 30.

The idea to compare the notion of property right is useful, especially if the following underlined notions are taken into account. Let's use the wording of the famous fifth amendment of the Constitution of the United States of America: it states that: "no persons shall be deprived of ... property, without due process of law" and that "nor shall private property be taken for public use, without compensation".

The Constitution of Macedonia holds the acceptability test for property deprivation provisions with some peculiarities: "public use" is translated in Macedonian case as "public interest" (Article 30.3), and the just price in Article 30.4 is interpreted as "rightful compensations not lower than its market value is guaranteed".

However, it is important to point out that "persons", individuals, as foundation of the civil society are not mentioned and there is also no mentioning of the "private property" as bases of market economy; there is only a use of the general term "property".

In the use of the term "public interest" Macedonians Constitution is close to Ex-Yugoslav constitutional tradition: it is more or less just nominal but when referred to some specific areas definitions could be diverse.

In the decade of economic practice we have no unified and simple definition of what is public interest in concrete sectors or areas and there is a need to adopt best available approaches to the issue, like in some other East European countries. For instance, the process of privatization in the Republic of Macedonia has been driven more by guidelines of private political parties' interest than by strong definitions of public interest. This is, perhaps, the reason why "public interest" is merely a constitutional statement without any practical use.

2. Re: taxes. There is nothing specific in the Constitution and the respective laws; definitions correspond to those of other countries (see Article 33). The exception is the implementation and in the tax evasion

practices, especially in the North West of the country where the principle of equality before the law is being eroded for nearly a decade.

3. Re: transferability of the property rights: There are very poor definitions in our Constitution dealing with transfer of capital and profits (see Article 59).

4. Re: landownership: Even more advanced countries believed that land is of supreme national value. Republic of Macedonia has no strong provisions to protect regulations of rights of land ownerships (for foreign subject, see Article 31). Perhaps the reason is that above 80% of the land is private owned. These rights in the case of Republic of Macedonia are in strong connections with two issues. The first is the reinforcement of the national sovereignty, and, second, these property rights are related to the unresolved problems of the ethnic minorities in West-North part of the country.

5. Re: the so-called “Exclusive” rights:

The Constitutions of The Republic of Macedonia contains a serious weakness of the definitions in the area of exclusive rights in comparison with other countries reviewed in the report. Deficiencies, however, are roughly similar. It is obvious in the respective provisions on the so-called natural monopolies and rights to use natural resources (Article 56).

Freedom to engage in business

6. Re: free enterprises “per se”

About quoted Article 8 of the Macedonian constitution in Article 8, it should be noted that it sounds good but more as a declaration. The article is like basket for all rights, among them economic ones.

However, the most important is last sentence; it states “Anything that is not prohibited by the Constitutions or by law is permitted in the Republic of Macedonia”. This offers an opportunity for all enterprises or private individuals, even for the state in transitional period, to abuse the dominant positions, for corruptions, profit and rent extortion, etc. in areas like free trade quotas, use of natural resources, environment protections and the like – areas and sectors where there is a lack of specific regulations.

8. Re: competition and economic activities:

Macedonia has a problem ensuring conditions for competitions, especially after signing the Stabilizations and Associations Agreement

(SAA), in November 2000. There are no definitions of “market failures” and “public interest” in the business area, especially in some concrete instances that are in direct conflict with duties under SAA. E.g. the country is missing the definitions similar to Slovenian provision, which says: “any business activities in conflict with the public interest may not be pursued”.

Romania: Amalia Fugaru, Romanian Centre for Economic Policies

The idea of this paper – to apply the constitutional economics to the countries in the Balkan region- is original and comes at the right moment. Firstly, as the authors themselves underline in the paper (p.5), this theory was rarely applied to a region and therefore unlikely to have been used before in an analysis for the Balkan region. Second, the timing of the paper at least from a Romanian point of view is very good. Indeed presently, Romania is in the process of changing the constitution because there are provisions in it that no more correspond to the development of the society, and moreover some of these provisions are hampering the efficient functioning of the society. Moreover, any reader of this paper will appreciate the effort of analysing the constitutions of numerous countries, the in-depth understanding of the specific conditions they were made in, and also the broad perspective necessary for such a comparison.

The hypothesis of the study is that the provisions from the constitutions related to the private property, movement of capital, relation between ownership and citizenship, the stability of the government machinery could predict the way reforms are made in these societies.

However, in most of the former socialist countries the new constitutions were built when the economic reform was underway. Although the basic provisions related to the aspects mentioned above were supposed to be clearly dealt with, the political and economic interests present at that time made impossible the simple and clear definition of these rules⁷⁶. Therefore, it is highly unlikely that the constitution both

⁷⁶ The constitution of Poland states clearly the right to private property and the limitation of the powers of the government. Yet, during the first years of reform in Poland the government and the president ruled in a strong manner. Moreover, the concern of the people from former Czechoslovakia not to have any of the chambers of the Parliament more powerful than the other did not hamper the politicians to bypass the vote of the people and split the country.

in Central European Countries (CECs) and in the Balkan region to be the instrument used for such prediction. Moreover, even if the provisions were more clearly defined in the CECs than in the Balkan area the enforcement, at least at the beginning of the transition period, seemed to create numerous problem in these countries too.

Thus, one element to be admitted in such an analysis is that is unlikely for the countries which have to build simultaneously an economy, a civil society and sometime a state, to have a constitution which is from the beginning the ultimate product needing no further adjustment. However, it would be interesting to study what were the factors that influenced the making of the constitution and if the same factors are the ones that will trigger the change of the constitutions.

After testing the hypothesis, this study concludes that the countries in the Balkan area, “do not provide for an efficient and equitable treatment of different forms of property and for individual protected from state taking” (p. 21). In the same time, the political crisis can not be solved according to constitution provisions, despite the extensive provisions. Therefore, the study argues that what is to be expected from these constitution is a continuous change, triggered also by the EU accession process, but also the danger of collectivist attitudes ending in nationalism or a strong state.

Indeed, the second part of the conclusion is confirmed by the evolution in the former Yugoslavia from the '90s. However, such a conclusion does not fit the Bulgarian and the Romanian experience.

In my opinion, the in-depth analysis that this study encloses as well as the perfect analytical skills demonstrated by the authors could provide the answer to an important question: what were the factors that influenced the making of the constitutions and which are the elements from the present situation of the respective countries that will trigger the changes of their constitutions.

To answer these questions probably the best thing to do is to start with the role of the constitution. Among its purposes the constitution, by setting the rights in a society, establishes the legitimacy of the state and also by forcing the government to act legally, allows the citizens to anticipate the policies of the government.

However, the transition period imposes two opposing tendencies on the constitution-building process. Thus, as Hellman states in the “Constitutions and economic reforms in the post-communist transitions”:

- constitution is a key political precondition for the success of market oriented economic reforms by restraining the discretionary power of the state,
- the adoption of necessary but unpopular economic reforms requires a state with sufficient capacity and flexibility to push through difficult policy choices and to outmanoeuvre political opponents.

Therefore during the 90's it was not uncommon to see scholars like Holme arguing that the solution to this dilemma is a "stopgap constitution". He conducted an econometric analysis on the economic reform considering the time of the new constitution and if the constitution was adopted during economic reform. His approach is that the solution is a "stopgap constitution" because transitional systems have a "crying need" for strong executives that can combine effectiveness and legitimacy in a context of rapid social change.

On the other hand, Elster and Weingast voice a different opinion. According to them if the key problem is the states' threat to expropriate the gains from the reform, than the most effective constitution will be one that maximises constraints on the state's discretionary powers to intervene in the economy.

Therefore, it can be said from the above that the constitution making process during the transition period had to take into account at least two contradictions, on one hand between legitimacy and efficiency, and on the other hand, between long and short term priorities.

If one agrees that the whole constitution making process was heavily indebted to the economic transition it is logical to understand why the Balkan countries can be considered to have "stopgap constitutions". Indeed, the analysis of the present study proves that all Balkan countries gave priority to the intervention of the state in transition process and this supports the conclusion of the study that in the near future these constitutions will have to be changed.

However, presently these are exactly the countries lagging behind with the economic reforms. The study perfectly gives the example of Estonia having a stable constitution and in the same time being a front-runner of the economic reforms. The explanation here has to do with the first element considered by the authors of this study- the definition of the property rights. As mentioned above, the definition of the rights in the constitution legitimise the state. Nevertheless, as the authors mention, in the Balkan countries the rights are not equally clear defined and protected and therefore the state was forced to legitimate itself through

a stronger intervention on the market, or otherwise put, through a longer presence on the market.

This idea is also supported by the example given by the authors that Poland is the only country where the constitution has a provision whereby if the budget is not adopted the government has to resign. Moreover, some researcher argue that the beginning of the end of Yugoslavia started with the budget of 1990 in which member states like Croatia and Slovenia were net contributors, whereas Serbia was a clear net receiver and the Serb dominated central leadership did not want to change this arrangement.

Considering the examples of the better situation of the CECs it has to be emphasised that the changing process of the constitution that is imminent in the Balkan region will have as a source the constitution of these front-runners, and not only the changes imposed by the EU accession process.

Thus, according to the above mentioned facts the economic aspects contributed to the building of constitutions and their simultaneous rolling with the economic reform conditions gave more chance to success to some countries than to the others. But, in the same time this means that once the Balkan region countries have reached a certain degree of economic development the constitution will be changed according to the new needs, and most probably will be transformed into long term documents.

As to what regards the direction of the change it is likely that this will follow the EU rules as all these countries are targeting the membership in the EU. However, to the extent to which elements like the relation between ownership and citizenship are concerned, probably the provisions in the constitutions will not change until the region will be perceived as secure.

In the end, the constitution changing process in the Balkan area is still subject to the statement that J. Elster made, that the people responsible for this process are like Baron von Munchausen – “they must pull themselves out of the swamp by their own hair”.

Serbia: *Ilija Vujačić, Political Science Department of Belgrade University, and Centre for Liberal-Democratic Studies, Belgrade*

General overview

Examination of the Balkan constitutional provisions dealing with institutions of private property rights and government machinery with application of constitutional economics in order to derive “what pattern of functioning democracy is likely to emerge” is an interesting and valuable approach, unknown in the research of transitional processes in the region. This approach is particularly important because most regional studies until now were concerned with identity and nation building, with little reference on perspectives of market democracy in the region. And the very fact that all Balkan countries were first of all occupied with identity and nation building issues, explains why also researches were dominantly oriented towards problems of identity, ethnicity, nationality and state.

This public choice analysis have shown that Balkan constitutions - besides the intentions of constitutions' makers for giving impression of care for individual liberties, economic freedom and market principles - have not provided the basic rules and principles of *effective market democracy* (such rules as: creation of competitive environment by removing state monopoly; lower transaction costs; a reasonable framework for levels of the risk in order not to spread them over a vast majority of all citizens; defined relation between allocative and distributive efficiency in favor of the former; defined rules and not outcomes, etc.).

Authors have demonstrated correct comparative analysis of the Balkan constitutions itself and in relation to other East-European and EU constitutions and have reached general conclusions fitting peculiarities of constitutional situation in the Balkans and possible future development. Main objective of authors of this study-paper to give descriptive analysis of the Balkan constitutions and to derive some observations and predictions is successfully completed. It would be possible to get even fuller picture and to derive even stronger and more founded conclusions if further analysis would involve wider legal framework derived from the constitutions, having in mind the fact that many constitutional provisions provided for further stipulations by laws

and so opening rooms for introduction of many obstacles through parliamentary legislation. It would be possible also to involve investigation of economic, political and social factors which had a strong impact on constitutions' making processes. But, it was not the intention of authors of this study.

The case of Yugoslav constitutional situation

In relation to Yugoslav constitutional situation authors' analysis is correct concerning wording of the constitution of FR Yugoslavia. But, the analysis of the constitutional situation in FR Yugoslavia should involve the analysis of Serbian and Montenegrin constitutions respectively in order to have fuller picture of the constitutional situation in Yugoslavia. The reasons for it are as follows:

- a) In dealing with Yugoslav constitutional situation it would be better to relay on Serbian and Montenegrin constitutions respectively and not on Yugoslav federal constitution, since from the very day of its issuing in 1992 the Constitution of FR Yugoslavia was not in effect, decisions were made extra-institutionally and unconstitutionally.
- b) If constitution did matter at all in situation of populist cezarism of Milosevic's regime, than there had been all the time primacy of Serbian constitution (issued by former communists in 1990) over Yugoslav constitution (issued by the same former communists in 1992) and Serbian constitution (framed as constitution for an independent state) have never been adapted to Yugoslav constitution. There were a lot of contradicted provisions between Serbian and Yugoslav constitutions and duplicated competencies of republican and federal governments. In that situation Yugoslav constitution was only a piece of paper.
- c) From 1997 government of Montenegro have refused obedience to federal constitution and any federal loyalty, so that processes in Montenegro were proceeded following Montenegrin constitution only (particularly in the areas which are of the interest for this study)
- d) Serbian constitution is still more restrictive then Yugoslav constitution in relation to the problems this study-paper deals with. Since Montenegrin constitution had been issued after Yugoslav constitution and it is more in accordance with its provisions I will list here some provisions from Serbian constitution which differ from provisions in Yugoslav constitution:

Art. 1

“Republic of Serbia is democratic state of all citizens, based on liberties and rights of man and citizen, on the rule of law and social justice.”

Art. 55

“Economic and social system is based on all forms of property; on united market of goods, labor and capital; on autonomy of enterprises and all other forms of organization; on management and appropriation on the basis of property and labor; as well as on the right of employees and the right of the other citizens to social security.

With measures for development and measures of economic and social policy the state stimulates, under equal conditions, the growth of economic and social wellbeing of citizens.”

Art. 56

“Social, state, private and cooperative property are guaranteed, as well as other forms of property.

All forms of property have equal legal protection.

Foreigner can acquire the right of property under the provisions of law.”

Art. 60

“Natural riches and goods in public use, as goods of common interest, as well as urban land are state ownership or social ownership.”

- e) In this moment it is obvious that Yugoslav constitutional situation will be very soon very different than it is now. Namely, due to the recently signed political declaration for constitutional rearrangement of Yugoslav federation (March 14, 2002) called *Proceeding Points for the Restructuring of Relations Between Serbia and Montenegro*, Federal Republic of Yugoslavia is in the process of devolution from federal state into some kind of political union of Serbia and Montenegro. There would be two semi-

independent states connected only in their international relations with common representatives in international organizations, and with two different and independent economic systems with very slight elements of common market. The future union of Serbia and Montenegro will not be custom union neither monetary union (there will be two different currencies - EURO in Montenegro and dinar in Serbia, two independent central banks, different custom tariffs, different trade policies, different taxes, different processes and models of privatization etc. From the *Proceeding Points* it is obvious that economy (property rights, market regulations, taxes and tariffs) will be in competence of states and their renovated constitutions and not of union.

These are the main reason why relaying on Yugoslav constitution in this paper is of little significance. It is also of little significance to rely on one of 6 constitutional proposals (Dimitrijeviæ at all) since this one has no priority over others.

But it is quite possible that in relation to the analyzed constitutional provisions in this study-paper there would not be any substantial difference in future Serbian and Montenegrin constitutions in comparison with other constitutions of the Balkan countries. Future constitutions of Serbia and Montenegro will not opt for more effective market democracy then other constitutions in the Balkans.

COUNTRY REPORTS ON THE STATE FOR DEMOCRACY

ALBANIA: ALBANIA - A WEAK DEMOCRACY A WEAK STATE

Prepared by: Blendi Kajsiu, Aldo Bumçi, Albert Rakipi

Albanian Institute for International Studies

About the Authors

Albert Rakipi Ph.D. is the Director of the Albanian Institute for International Studies. Previously he has been a Deputy Foreign Minister of Albania and was a career diplomat before assuming this position. He also teaches as a part-time professor at the Tirana University, Faculty of History and Philology. His Ph.D. thesis is "Albania's Search for Security" (Bilkent University, Ankara, Turkey).

Aldo Bumci, MA is a researcher at the Albanian Institute for International Studies. He also teaches as part-time professor at the Tirana University, Faculty of Social Sciences. He holds an MA in International Relations from Bilkent University, Ankara, Turkey. His other publications include, "Macedonia and the Albanians: The confines of Ethnic Politics."

Blendi Kajsiu, MA is a researcher at the Albanian Institute for International Studies. He holds an MA in International Peace Studies from the Notre Dame University, Indiana, USA. He also teaches as a part-time professor at the Tirana University, Faculty of Social Sciences.

Acknowledgments

The Albanian Institute for International Studies is grateful to National Endowment for Democracy (NED), USA that made this report possible through its financial support. Special thanks go to Selami Xhepa for his contribution on the Albanian Transition Economy. The comments and insights provided by Artan Hoxha, Genc Ruli, Henri Cili,

Mustafa Nano, Afrim Krasniqi, Ilir Rusmajli, Kreshnik Spahia, Remzi Lani, Pirro Misha, Kastriot Islami, Andrea Stefani, Lutfi Dervishi, Ylli Cabiri, Besnik Mustafai, Mentor Nazako also proved very valuable.

Lastly, but not last we would like to thank the Center for Liberal Studies in Sofia for their initiative and fruitful cooperation and support.

Executive Summary

So far Albanian democracy has been understood through a transition paradigm. This understanding has been helpful in many ways. At least in its initial phases Albanian democracy could not be analyzed away from the multiple transitions Albania was going through. First of all the country opened up to the world after being the most isolated society in Europe. Secondly, there was a transition from a centrally planned to a market economy, a process that is still taking place. Thirdly, there was a movement from a totalitarian, communist regime to a democratic system. The handicaps of the fragile Albanian democracy were, and to large extent still are, attributed to the multiple challenges the country was being faced with simultaneously.

While transition paradigm is valid in explaining many of the current developments of the Albanian democracy, it is important to realize that some of the most serious handicaps of the Albanian democratic system can no longer be explained through a transition perspective. These problems are becoming ingrained in the system through repetition, creating norms and traditions that are to persist in the near and medium future.

This is best illustrated by the history of the Albanian parliamentary elections during the last decade. With the exception of the 1992 parliamentary elections, that brought about a change in regimes and not simply governments, all the other parliamentary elections have been contested by the losing party. This phenomenon is disturbing since the irregularities have not simply been of a technical nature but have stemmed from a lack of political will to conduct free and fair elections. Therefore a political culture is being developed in which manipulation of the elections has become the norm, and as such the unwritten law of the Albanian electoral system. Under these circumstances it can no longer be claimed that election fraud is a transition phenomenon since now it has created a tradition of its own that is likely to continue, in one way or another, in the future.

Fraudulent elections have meant legitimacy crises for most Albanian governments during the last decade. The only government that did not suffer from a legitimacy crisis due to fraudulent elections was that of 1992. Yet even in this case a legitimacy challenge became pertinent due to other more structural handicaps that have beset democratic governance in Albania, regardless of the political party in power.

A legitimacy crisis has further weakened fledgling institutions, resulting in a vicious circle in which one reinforces the other. However, it is the institutional building process that has sustained institutional weakness in Albania and further undermined legitimacy. Elections bring about a change in state and not only in government since every political party that comes to power fills the state institutions, such as the judiciary, customs, secret services, the army, and so on with its own people. This in turn undermines both the legitimacy and the efficiency of the institutions. Institutions have not been built around a wide political consensus that would have endowed them with much needed stability and continuity.

The identification of the state with the political party in power is a prevailing phenomena in the Albanian political scene. This seems to be one of the lingering communist legacies that Albania has not been able to overcome. One of the unfortunate consequences of the party – state phenomena has been the collapse of the state along with that of the political party in power. Therefore, the constant re-making of the state has been the main factor of state weakness and instability.

Besides the above-mentioned political factors a dysfunctional economy that was inherited from communism and mismanaged during the past decade has been a deteriorating factor in the state and institution building processes. Albania continues to be one of the most underdeveloped economies in the region and the state is unable to provide even basic services to its citizens on a continual basis, such as water supply and electricity. Unemployment is rampant and the gray economy very large.

Given the current state of the Albanian economy and the absence of properly functioning market institutions and employment opportunities the state has become the main source of income for a significant part of the population. Privatization, customs, auctions and jobs in the public administration provide substantial income for those who control the state. This is part of the reason why the political parties once in power tend to assert their ownership of the state and deliver it bit by bit

to their followers as if it were a piece of property. Thus, economic situation has stiffened the competition for power and polarized the political scene, the choice becomes either all (the state) or nothing.

The fierce struggle of political parties for the control of the state and its institutions combined with the way in which the state institutions have become subordinated to and used by political parties has bred a general popular apathy. Apathy, as demonstrated by the shrinking numbers of those that go to the ballot boxes, has grown as a result of the general disappointment of the population with the political elite from both sides. In a prolonged situation of political and economic crises a large part of the population does not see any solutions in the present political establishment.

Apathy has also feed upon the fact that large numbers of Albanians have emigrated. The impact of emigration has been twofold. On the one hand it has had a positive impact in reducing social tensions and providing a much needed source of income. On the other hand emigration opportunities have bred apathy since a significant portion of the population seeks its future abroad and is reluctant to participate in domestic politics. At the same time remittances are an important source of income. In this ways a large segment of the population have lower stakes than they otherwise would in the domestic developments, be they political or economic. Combined with the general distaste regarding political developments this has produced and sustained even more apathy. In these circumstances there is a growing gap between the political debate and the popular needs and in the absence of organized forms of public pressure the political debates continue to grow away from the everyday concerns of the Albanian citizen.

In a general setting of polarized and confrontational political climate international community has continued to gain importance. In its initial phases of involvement in the Albanian political scene international community was more of a mediating party, whereas nowadays, and especially after the 1997 crises, its role has increasingly become that of an arbitrator. The latter function of the international community has been recognized and embraced by all the political parties in the country, especially as they seem increasingly unable to find common ground and to accept each other.

Given the above mentioned handicaps of the Albanian democracy, such as contested elections, weak institutions, poverty, and the resulting

legitimacy crises, international community has become as important and at times an even more important source of legitimacy than the electorate itself. Thus, after the contested parliamentary elections of 2001 the opposition leaders (Coalition for Victory) toured the most important European capitals and international institutions in order to prove their claim that elections had been manipulated by the Socialist Party. Thus, the final word on the validity of the elections rested with the international community, and not with any of the domestic actors.

This has created a viscous circle of dependency culture – both economic and political – in which the local actors have become increasingly dependent on the international community and thus the latter has become increasingly involved in Albanian domestic politics. In order to break free from such a vicious circle – that is detrimental to both local and international actors - a rethinking of the role of the international community and its relation *vis a vis* domestic actors is needed. This rethinking should aim to make local actors more accountable and thus reduce the gap between the public and the political elites.

However, it is important to realize that the handicaps of the Albanian democracy cannot be dealt with only through top – down approaches. An important challenge Albanian democracy is being faced is to stimulate grass root participation and organization. This would be the only effective way to bridge the gap between the people and the political elite. This function has not been performed by the so called civil society that has been quite often identified with NGOs. These by and large are not result of indigenous movements but donor driven and thus incapable to voice popular concerns. Another important component of the civil society, the media, follows very closely on the footsteps of the political game – that as it has been mentioned is growing away from popular concerns. Despite their many shortcomings political parties remain the only successful social movements and as such worthy of more attention.

Recommendations

- *Political Parties*

It is important to realize that in Albania, political parties are some of the most important and self-sustainable institutions. So, it is important

that more investment should be made in building the capacities of the political parties, providing training and improving their efficiency and democratic culture.

- *Political Consensus and Institutions*

At the heart of the functioning, organization, and structure of the judiciary there should be a political agreement that should ensure the longevity and immunity of the judiciary system. Practices in the international arena lead us to believe that the best long term solution, as far as the judiciary is concerned, could be a political agreement that regulates appointments to the highest levels of the judiciary and the justice system. Such an agreement would guarantee the independence of these institutions from the purges that follow electoral processes.

- *Electoral Reform*

The present electoral system in Albania is a SMDS one (Single Member-District System) combined with a proportional system. The electoral system is primarily a SMDP one since 100 out of 140 seats are allocated through SMDS, whereas the remaining 40 are allocated proportionally while respecting the SMDS ratios. Such a system tends to perpetuate the two major political parties and does not create room for new political alternatives to gain meaningful representation. Therefore a more proportional electoral system should be favored in order to enrich the political offer to the electorate.⁷⁷

- *Restore Parliamentary Democracy*

One of the main virtues of a parliamentary democracy is that it produces governance. The head of the executive is also head of the winning political party so that there is a clear line of responsibility and accountability. This has rarely been the case in Albania that is supposedly a parliamentary democracy. As the most recent crises indicates the separation of powers between the chairman of the party and the premiere is a recipe for future crises as both of them will struggle for the control of the parliament and the party while shifting responsibility to each other for any short comings of the governance.

- *Fighting Corruption*

The fight against corruption remains one of the major challenges for

⁷⁷ For a more detailed and elaborate treatment of the shortcomings of the SMDS and the virtues of a more proportional system for the Albanian political scene see "Politika e Dy te Tretave: Zgjidhja Proporcionale e Fenomenit Shqiptar", by Henri Cili.

Albania, and has serious implications for the future governance. At the present time a momentum in the fight against corruption, due to recent political developments, is beginning to take root in the media and the public agenda. If the fight against corruption is to succeed this momentum should enter governments agenda and the justice machinery and not wane.

- *Regional vs. Domestic Stability*

“Greater Albania” is not a factor in the internal dynamics of the country, consequently priorities lie with domestic challenges, such as basic services, economic development, corruption and trafficking. Therefore, these should be the criteria against which governance should be judged by the international community in Albania.

- *Stability vs. Democracy*

In Albania due to a prolonged crises situation, stability is emerging as the panacea of the Albanian conundrum. However, developments within Albania should be judged not on merit of the so called “stability considerations” but against democratization processes.

- *Consistency in Democratic Standards*

One of the most important measures to be taken in order to overcome the “stability phenomenon” and promote democratization is by upholding consistent standards regarding free and fair elections. Unfortunately, Albania has not yet passed the test of free and fair elections. A tradition of compromised, yet acceptable, electoral processes is taking root in Albania.

The Aftermath of 2001 Parliamentary Elections

The 2001 parliamentary elections marked the beginning of a protracted political crises in Albania, which has three major dimensions. First of all there is an ongoing economic crises, caused mainly by an acute energy crises, which has been developing independently of political dynamics. Secondly, there is a major internal crises in the Socialist Party, between two major factions represented by chairman Nano and ex-premiere Meta, which resulted in a lack of governance and a total paralyses of the administration, this in turn has deepened the existing economic crises. Finally, there is an electoral crises inherited by the 2001 elections and that is partly reflected in the obstacles that have to be overcome in the election of the president.

The current political crises reflects all the major handicaps of the fragile Albanian democracy, while it has also brought forth some propitious novelties. The major challenge one has to face when trying to explain it is where to begin. Every beginning reflects the bias of the narrator, ours is not an exception. Yet we think our choice to start with the 2001 parliamentary elections is justified since parliamentary elections are a major turning point in the life of a young and fragile democracy. The 2001 elections were of particular importance since they were the first parliamentary elections held after the ones of 1997, which most of all represented a way out of the 1997 crises.

Again in the 2001 parliamentary elections Albanian democracy failed the test of free and fair elections. These elections were not recognized by the oppositions and they were strongly criticized by ODIHR although they were found acceptable.⁷⁸ With the exception of the 1992 elections, that brought about a change in regimes and not simply governments, all the other parliamentary elections in Albania have been contested by the losing party. Free and fair elections are still an unachieved objective for Albania, and this became quite clear in the 2001 parliamentary elections, especially as the parties compete on a “take it all” basis.

The debate about the election results revolved around the question of the extent of the Socialist victory (although this was more of a political stand rather than a factual one). The election results allowed the Socialist Party to elect the president with its 3/5 of the seats in parliament. Therefore, the Socialists did not need to engage the opposition in the process. Interestingly enough, the opposition being marginalized, an old power struggle within the Socialist Party, resurfaced and escalated between the chairman Nano and premiere Meta. Although in the Socialist electoral campaign Meta was presented as the future Socialist premiere, once the Socialist Party came to power Meta’s candidacy was challenged by Nano backed candidate. After Meta won by an overwhelming majority in the Socialist structures, Nano’s position was seriously weakened. Nano was marginalized and his position as chairman of the party was threatened.

Almost a month after the Meta II government was formed, Nano embarked on an anti-government campaign at the Socialist grass root levels. The major accusations that Nano directed against Meta and

⁷⁸ See OSCE/ODIHR Report “Republic of Albania Parliamentary Elections: Election Observation”. Warsaw, 11 October 2001.

his government revolved around allegations of corruption and dilettantism at high government levels, such government ministers, and trafficking of votes within the Socialist structures. Nano articulated with great skill existing grievances within the population at large, a population that was very sensitive towards the widespread phenomena of corruption and the obvious lack of political will to fight it. By a curious twist of irony Nano through his campaign quite unexpectedly became the spokesman of morality, values and the fight against corruption, although none of these elements had been defining characteristics in the making of his political stature.

Nano's split with Meta cannot be simply attributed to the appetite of these actors for power, or to a confrontational political culture, a concept that has been used and abused in explaining most developments in the Albanian political scene. The split is indicative of the deformation of the parliamentary democracy in Albania. One of the main virtues of a parliamentary democracy is that it produces governance.

The head of the executive is also head of the winning political party so that there is a clear line of responsibility and accountability. This has rarely been the case in Albania that is supposedly a parliamentary democracy. Therefore the failure of governance has been blamed on the government alone and not on the political force that was in power. This in turn has tended to further protract and complicate political crises.

As the most recent crises indicates the separation of powers between the chairman of the party and the premiere is a recipe for future crises as both of them will struggle for the control of the parliament and the party while shifting responsibility to each other for any short comings of the governance. Such a deformation has been both an outcome and a cause of Albanian political conflict. Thus, no matter who the premiere will be such a separation of powers will breed future crises since both the chairman and the premiere will compete for the control of the party. It is in this light that Nano's campaign should be understood.

The campaign that was baptized *Catharsis* by Nano, in a move reflective of the latter's fondness for convoluted terminology, ended quite abruptly in a pact between Meta and Nano, after it brought down Meta II government and placed Majko at the head of the executive. Although the details of this pact have not become public yet, it has become quite obvious that it did not and could not put an end to the ongoing political turmoil in Albania. The pact was dictated by political

expediencies rather than by any of the values catharsis was supposedly set in motion to promote. In fact the pact could not be the bearer and promoter of any values since it was agreed upon between two parties that had forcefully and publicly accused each other of corruption, ties with organized crime, election fraud, nepotism, abuse of power and so on.

One important factor that has aggravated and continues to aggravate the present political crises are the weak and politicized state institutions. While it is an auspicious novelty that a significant part of the conflict has developed within institutional settings, it is quite disturbing that state institutions have become quite often instruments of political struggles. Instead of performing the role of the facilitator and honest broker some of the most important state institutions seem to have taken sides with certain political factions. This has reduced their credibility and eroded their legitimacy.

Thus, during the 2001 elections the rulings of the Constitutional Court were at times arbitrary and inconsistent, as it was also noted by the international observers.⁷⁹ These rulings tended to favor the candidates of the Socialist Party against those of the opposition. The General Prosecutor on the other hand after years of passivity began to investigate only those public officials of the Meta II government that had been publicly accused by Nano, a move that produced the outcry of the Meta faction and brought about the discharge of the General Prosecutor by the Parliament. The main reason that brought about this discharge was the fact that the General Prosecutor was perceived to be allied with certain political factions. Therefore, the consecutive ruling of the Constitutional Court that the discharge of the General Prosecutor was unconstitutional appeared in the eyes of many as a political move more than an institutional decision. This ruling triggered the resignation of the Speaker of Parliament.

The unreliability of state institutions and the polarization of the political climate have extenuated the importance of the international factor in the Albanian domestic developments. Unable to find redress for its grievances with the state institutions the opposition leaders embarked on a European tour to make their case heard and to win international support and sympathy. The international community is trying to fulfill

⁷⁹ See OSCE/ODIHR Report "Republic of Albania Parliamentary Elections: Election Observation". Warsaw, 11 October 2001. p 16-17.

the role of the honest broker and facilitator that the state institutions have proved unable to perform. Its judgment has been brought to bear on important domestic issues such as the future election of the President especially as the local actors seem increasingly incapable to find common ground.

The protracted political crises, contested elections, combined with weak and dependent institution have resulted in a major legitimacy crisis for the Socialist rule. The legitimacy crises have been further compounded by deteriorating economic conditions and rampant unemployment. Under these circumstances the political debate is continuously growing away from the concerns of the public. Despite the high rhetoric of the parties involved in the current political crises it has become painfully obvious by now that the political scene is completely dominated by power struggles which the politicians at this point do not even take the pain to wrap in a veil of values or alternatives.

The growing gap between the public and the political elite has not been bridged by the civil society. One of the most important components of the civil society, media, has been dominated by the political debate to the extent that little room is left for the coverage of other social issues. Despite their obvious progress in recent years the media still manifests some major handicaps and especially a pronounced lack of professionalism. Moreover, with few exceptions the media has close ties with the political elites and thus has ceded part of its independence in exchange for financial gains.

Interest groups are not well organized yet, whereas the labor unions are closely affiliate with and controlled by the political parties. The NGO sector, that quite often and quite erroneously is taken to represent the Albanian civil society, is still in its infancy despite considerable positive developments in recent years. The Albanian NGOs tend to be donor driven and not financially viable in order to be truly independent. They seem to reflect international rather than local priorities. As such they have been unable to speak for and on behalf of the general public and also unable to bring any substantial pressure to bear on government policies. In short, most of the Albanian NGOs are not representatives of indigenous social movements, but rather closed circles of elites that conduct a one way dialogue and try to milk international donors as well as the government.

Although the Albanian political scene presents us with a gloomy picture, certain positive developments should not be ignored. While it is true

that the political spectrum is very polarized and politics is still quite confrontational it is perhaps the first time in Albanian politics that such a large part the conflict is taking place within an institutional setting. The political party, the Parliament, the Constitutional Court and the Office of the General Prosecutor have been in the spotlight of the media and have turned into forums of debate as well as of confrontation. In a sense they have regained their importance. This is not to say that an important part of the conflict does not develop behind closed doors and hidden from the public eye such as the Nano-Meta pact. Yet it is important to remember that this has been the norm in Albanian politics so far.

Institutions have been quite often misused and abused, but at least not ignored or boycotted. The opposition entered the parliament, restoring a certain degree of legitimacy to this institution, while endowing it with a considerable degree of importance. It could be argued that the opposition would have entered parliament eventually, especially given its changed attitude and efforts to improve its relations with the international community. In fact, unlike in the case of 2000 local elections, in the parliamentary elections of 2001 the opposition did not resort to public demonstrations but has channeled its struggle within the parliament. Parliamentary sessions now really matter since they do not simply serve to ratify decisions that have been already taken by political leaders behind closed doors. Many issues are being debated in the parliament and many lessons seem to have been learned.

There has been cooperation between the opposition and one of the factions in the Socialist Party in the parliament. Meta II government accepted the Anticorruption Platform introduced by the opposition. Although such a cooperation might have been dictated by political expediencies it does set a positive precedent. So far Albanian politics has been characterized as confrontational, and any cooperation between the two major forces was ruled out as impossible.

It is the first time in the young Albanian democracy that conditions are ripe and seem to warrant a consensual president. The advantages of such a choice could be felt both in the short and the long run. In the short run a consensual president could alleviate heightened political tensions, while at the same time it could provide additional guarantees for free and fair elections in the future. A consensual president could have a very positive impact on the justice system. It also sets a positive precedent for the institutional building process that during the last decade has been besieged by the lack of political will to cooperate.

The last Albanian elections also saw the appearance of a new political party, the Reformed Democratic Party that gained a considerable number of seats in the parliament and thus became the third political force in the Albanian political scene. This party was formed by a faction of Democratic Party led by the former deputy chairman of DP, Genc Pollo in collaboration with other small right wing groups. Its seats were not won through ceded electoral zones as it has been the norm with other small political parties, although the Democratic Party claimed that part of the PDr's victory came because it used its name and symbols.

Yet this party was unable to play a significant role in the latest political developments given its own internal split and the shortcomings of the parliamentary elections that produced some distorted electoral results. It is conceivable that under a different scenario PDr could have played an important role. The emergence of PDr is a good indication of the need for an enriched political offer in the Albanian scenario, and perhaps reflects the need of a more proportional electoral system.

While the present crises is unfolding at an unprecedented pace, in the general prevailing uncertainty most of the debates still revolve around power struggles, political moves and Byzantine schemes. Therefore it is important to remember the opportunities that this crises provides us with. Each of this opportunities in itself should represent a value beyond a short term solution. However, in order to better understand the challenges that Albanian democracy is being faced with we need to take a brief look at the past.

Communist Legacy

In order to better understand present developments in Albania it is indispensable to take a brief look at Albania's communist experience and its implications. While all other Eastern countries lived through communist regimes, it is important to emphasize the idiosyncrasies of Albanian communism. The major traits of the Albanian communist regime that were far more salient as compared to other communist countries are the following:

- *A complete isolation that insulated the country for half a century, apart even from other communist bloc countries.* In 1947-48 Albania broke relations with Yugoslavia, later on in the early sixties Albania broke up with the Soviet Union, and strength-

ened its bilateral relations with China. Finally in the late seventies relations with China were severed, which meant that the country became literally insulated from the rest of the world. Combined with the already prior existence of the backwardness of economic and social developments in the country, such isolation undermined any prospects of future development.

- *Official paranoia and propaganda of external enemies.* The complete isolation was founded on official paranoia and propaganda of external enemies. Nationalist and patriotic rhetoric was used to justify economic hardships and isolation. Albanian nationalism was no longer based on the culture traditions and historically accumulated experiences of the nation but on the socialist ideologies.
- *Stalinization of the country.* Part of the reason for the total isolation of Albania was the fact that the Albanian communist leadership denounced any de-Stalinization moves. One of the major deteriorating impacts of such a political course of action was the elimination of a liberal political elite that consisted of western educated Albanian intellectuals. Furthermore, a new liberal political elite, or dissident groups could not emerge, as it happened in Central European communist countries after certain liberalization policies were implemented in the late 70s early 80s. Therefore, the early 90s found Albania without a experienced liberal elite to lead transition processes.
- *An extremely totalitarian regime.* Another particularity of the Albanian communist regime, that put it apart from other Eastern bloc countries, was the degree of the totalitarian nature of the regime that controlled every aspect of life and was taken to extremes in Albania through the abolition of religious practices in the late 60s.
- *The abolition of all forms of private property.* Private property and activities were completely abolished even in rural areas. Although in all the other communist countries property was state owned, yet there was room left for private property in the rural areas. Such was not the case in Albania.
- *Very harsh political persecution.* Political persecution was an-

other characteristic of the Albanian communist regime that was not only taken to extremes but also never relaxed. In a country of less than three million, hundreds of thousands of people suffered political persecution in one way or another. Political persecution was not limited to individuals but also to their family circles. The end result was a deeply divided society.

- *The Communist New Man.* Throughout its existence the Albanian communist regime proclaimed the creation of the New Man as its major achievement. This New Man was imbued with the Marxist – Leninist ideals, free from religious superstitions, material desires and any other vices of the old capitalist world.

Implications of the Communist Legacy

Communist collapse in Albania was followed by the moral, spiritual and cultural crises reflected in loss of confidence, decline in national pride and civic morals. Albania was going through one of the most difficult period in its history. A general situation of turmoil prevailed as the communist system was collapsing. Internal security had broken and the country was experiencing a severe economic and social dislocation that reduced Albania to total dependency on foreign assistance.⁸⁰ These phenomena were far more salient in the case of Albania, than in other communist countries given the harsher communist rule the country had experienced.

- *Decline in national pride and morals.* Unlike in the case of former Yugoslavia where the collapse of communism was followed by a sharp increase in nationalistic sentiments, Albania went through the opposite experience. As the prominent Albanian writer puts it “ [i]n Albania there is no national hysteria, on the contrary the Albanians have gone to the other extreme, that of too great indifference.”⁸¹ The above mentioned practices, such as the isolation of the country and the abusive

⁸⁰ Louis, Zanga. “Albania Reduced to Total dependence on Foreign Food.” *RFE/RL Research Reports*. Vol. 1, No. 8. 21st February 1992.

⁸¹ Interview with Ismail Kadare. “Dealing a blow to the dictatorship”. *Transition*. Vol 1. No 20. #rd November 1995, p64.

employment of nationalistic rhetoric alienated the population from anything that involved nationalism and patriotic rhetoric. This was a general mood that characterized Albanians as they entered post-Cold War era, despite the unresolved Albanian national questions.

- *Social cleavages that draw from the communist past.* Throughout the Albanian transition the two major political groupings reflected divisions of the communist past into pro and anti communist. Thus, the main supporters of the Socialist Party came from those social groups that had been sympathetic to the communist regime. Whereas, Democratic Party would draw, at least in its initial phases, from those segments of the population that either had been persecuted during communism or were unsympathetic to the regime. Recent developments have begun to blur divisions along these lines, although they still prevail in Albanian politics. This division has contributed to the confrontational nature and the charged political climate of Albania.
- *Uncooperative Individualism.* Although individualism is the cornerstone of a Western democratic society, and it released much needed potentials during the transition period, in the case of Albania it also went to extremes as a reaction of an imposed collective past, and the negation of individualism in the totalitarian Albania. In the absence of social cohesion due to the aftermath of communism, there was a disturbing imbalance between the individual on the one hand and society on the other, especially in view of weak state institutions that would have otherwise regulated this relationship. Freedom was wrongly understood as the unhindered pursuit of personal gains at the expense of society and the public good.
- *Identification of the Government with the State.* One of the deficiencies of the present democratic Albania, inherited from its past is the identification of the state with the government, since during communism the party was the state. In the Albanian democracy elections have brought about a change not simply in government but in the state.

It is important to emphasize that despite the harsh communist legacy and unstable transition, those who had suffered under communism

did not take revenge against their perpetrators. This was a very positive development since it contributed to a peaceful transition.

Although one would have expected the communist legacy of Albania to breed state dependency individual initiative and entrepreneurial spirit thrived as it was indicated by the economic successes of the early years of the transition.

Weak State: Weak Institutions

In order to better understand the dynamics of a weak state we shall focus on three important elements that determine the degree to which a state can be considered weak or strong. The degree of legitimacy a state enjoys is one of the most important components that should be taken in consideration when trying to classify it as weak or strong. A state, by definition also has the monopoly of legitimate use of force. For a democratic state the ability to employ coercive means is secondary and dependent upon the degree of legitimacy it enjoys. The greater the legitimacy of the state, the stronger the state and the lesser the need to rely on coercive means. Finally, efficiency of state institutions is vital if a state is to be considered strong. By efficiency is understood the ability of the state institutions to fulfill state functions such policy making and implementation.

Using the above analytical framework, one can easily conclude that the communist regime did not have strong state. Its strength derived mainly from its repressive capacities, its very existence was tied to the survival of the communist ideology. The state was present, through all its instruments, and especially security, in every aspect of the people's life. Repressive capacity was combined with a certain degree of legitimacy that the state enjoyed among the privileged strata of the population. The communist state was not an efficient machinery, yet it did provide certain basic services. It is important though to emphasize that the strength of the state was founded mostly on its coercive capacity.

Once communism collapsed, in the early transition period. 1990-92, the state rapidly retreated from the life of the individuals for a variety of reasons. The first and foremost factor that brought about the extreme weakening of the state institutions was the demise of the communist ideology, to which the existence of the communist state was intrinsically tied. The ideological collapse had its roots in the economic collapse

that paralyzed the state, weakening it further. These two factors combined to reduce the coercive capacity of the state. Citizens no longer feared the state, their compliance with rule of law was reduced, especially since coercion, not values, had been the major source of compliance.

The Albanian state gained in strength after the elections of 1992 elections, once the Democratic Party came to power. The major factor in this was the legitimacy of the new government and the popular backing it received. Another important factor in strengthening the weak Albanian state was improved economic situation, partly due to the foreign economic aid, and mainly due to the economic reforms. This increased the efficiency and the capacity of the state to devise and implement policies. While there was little knowledge of market economy, the hopes were high. Yet it can be hardly argued that the Albanian state at the time was strong. Despite its legitimacy through popular support the state was not present as many norms, such as paying taxes, bills, respect for the public good, were not internalized by the population.

The major blow to the process of state strengthening was the 1997 crises. This marked not simply the weakening but the total collapse of the state and its institutions. All the elements that define a state vanished. The government lost control over substantial parts of its territory. Due to the general crises situation the state lost its efficiency, coercive capacities, and more importantly legitimacy. In developments reminiscent of the 1990-1992 period, the state once again created a vacuum, this time not through its rapid withdrawal but through its collapse.

The 1997 crises and its aftermath are still felt day in every aspect of the life, and especially in the perpetuation of weakness of the state institutions, and the fear of a possible relapse. The three main dimensions, legitimacy, efficiency and coercive capacity, were seriously endangered. Although probably the only solution to the crises, the 1997 early elections did not endow the newly elected government with the necessary degree of legitimacy needed to strengthened the collapsed state institutions. The economic collapse that came through the pyramid schemes undermined the efficiency of the state. The coercive capacity of the state was reduced substantially as roving bands continued to have control over substantial parts of the territory. Increased corruption, and connections of the state officials with organized crime further undermined and reduced the legitimacy and

efficiency of the state.

Although considerable progress has been made ever since the 1997 crises towards strengthening the rule of law and state institutions, some of the above mentioned obstacles that perpetuate a weak state are still present. Governance still lacks in legitimacy, the prolonged energy and economic crises continue to undermine the efficiency as well as the legitimacy of the state, which in turn weakens even further state institutions.

Another important factor that has not been elaborated upon so far is the history of institutional building that has a direct bearing on the capacities of the state institutions to be efficient, functional and acceptable. This is what we look at in the next section.

Institutional Building

Institutional building remains a daunting task for Albania both at present and for the future. There is a variety of factors that beset the democratic institutional building in Albania. One of the major problems throughout the transition period has been the politicization of the state administration. Every political party once in power has began a purge of the state administration, replacing previous employees with its loyal supporters, a practice which has strongly undermined the capacity and efficacy of the state administration and institutions.

When the first opposition party in Albania, the Democratic Party of President Berisha, came to power in 1992, many replacements were made in the state institutions. It has been argued that these actions were reasonable and imposed by circumstances, since Albania was not just changing a government, but a whole system. The changes affected mostly the political directors of the institutions, and even though a certain number of experts remained in the new institutions, there occurred unmotivated or politically motivated dismissal of experts. We should understand this in the context of lack of alternative sources of income, and the fact that state employment remained for a long time for many people the only source of income.

Further developments in state institution confirmed the suspicion that the replacement in public institutions has become a *de-facto* system—experts are replaced any time a new party comes to power. Hence, when the Socialist Party—the former communist one—came to power in 1997, it undertook a new campaign of dismissals in public

administration for political motivations which led in turn to the further weakening of institutions, in panic and lack of job security. A number of experts resigned voluntarily from work for this reason in state institutions.

A huge blow to the institutions happened when hundreds of new specialists were dismissed for the above-mentioned reasons—many of these specialists were educated during the first five years of transition with funds generated by western taxpayers. The dismissals in the Foreign Service departments occurred even in merely technical positions. Large dismissals occurred in the security institutions, armed forces and fiscal services. In the secret service department after the year 1997, very few workers retained their jobs, while the replacement of regional police commanders all over Albania was accompanied by replacements of rank and file policemen. The turnover in the customs is even higher. It is hard to find custom officers that have started their work in 1992.

Institutions have become hostage to the political changes in the country, even though the law of civil service has been ratified. These tendencies and practices have weakened state institutions. If rebuilding the government has been accompanied by the weakening of the state, the reasons should be sought at the way of building institutions.

One of the most significant traits of the Albanian democracy is the identification of state institutions with the political party that in turn is identified with the government, which in the democratic process is replaced periodically by the political parties through the electoral system. There is a very fine distinction between government and state in the first place since the former has the authority to act on behalf of the latter. In the case of Albania this distinction has been blurred to a disturbing extent. As it has already been mentioned elections in Albanian do not bring a change in government alone but in the state apparatus as a whole, since politically motivated replacements are wide spread in the state administration. The phenomenon is not confined to clannish practices and nepotism, still alive in the mentality of the Albanian political elites, but has to do with the fact that political elites, once in power, identify their party with the state, behaving as if they own the latter.

The Albanian transition strongly reflects previous dictatorial practices of the building of party-state. The replacement of a government, i.e. the replacement of the party in power with the opposition party—is

accompanied with the replacement of the state. It seems that whenever a party comes to power in Albania, it creates its own institutions. Therefore, the state institutions represent only a part of the society. While for example, the state institutions in the Macedonia (FYROM) – another typically weak state in the region—represents only a part of the community—the ethnic Macedonian Slavs; in Albania, the state institutions represent only a part of the community, but not on an ethnic base but on a party base.⁸²

Besides the communist legacy, one of the reasons why the Democratic Party 1992-96, identified its rule with the state stems from the unique circumstances and the results of 1992 elections. The 1992 elections did not simply bring a change in the government but a change in the system. Albania broke away with its communist past. In this way Democratic Party felt entitled to identify itself as the guardian of the new system, becoming thus one with the state. The Socialist Party, that was trying to redefine itself in the early 1990s, were perceived as the bearers of the communist legacy, thus making any cooperation impossible.

Despite different circumstances of the 1997 aftermath Socialist Party behaved in a similar fashion. In many ways 1997 became reminiscent of the 1992 development. The state had collapsed and the Socialist Party took it upon itself to build the new Albanian state. Although the Socialist formed a coalition government, that was more of a window dressing since power remained in the hands of the Socialist Party. Since the Democratic Party was blamed for the collapse of the state, cooperation was again not seen as an option. This in turn facilitated the identification of the party with the state.

This identification has weakened and quite often threatened the very existence of state institutions. Institutions have become subordinate to party leaders and those individuals that were in power. In a well functioning democracy, political actors work and function within institutional constraints. In the case of Albania, the protagonism of individuals over that of institutions has delayed institutional building processes. Albania has been caught in the vicious circle of weak institutions that produce authoritarian leaders who in turn sustain and

⁸² See Albert Rakipi "Weak states—new dynamics of security" *Romanian Journal of International Studies*, Vol 4, 1999. See also Albert Rakipi "The Marshall Plan and Stability Pact: A comparative approach" in *Stability Pact just around the Corner* Albanian Institute for International Studies, Tirana 2000.

promote institutional weakness. One of the main factors why this has happened and continues to happen is because institutions in Albania are lacking in tradition and not well defined. Added to this is the legacy of a dictatorial past, where the protagonism of the leader in the party was institutionalized and, as mentioned above, the party was identified with the state.

Thus, there was a prevailing belief in Albania that once the two major political leaders, Nano and Berisha would leave the scene the political climate would improve. Most of the problems of the Albanian political life are attributed to these two leaders. However, given the weakness of the state and political institutions new protagonists, showing similar traits have occupied the Albanian political scene.

This in turn has undermined institutional independence. Although excellent laws have been ratified regarding institutional independence there remain serious discrepancies between the laws as written and their implementation. "The need for judicial reform is one of the biggest challenges. There are serious problems with the independence of the judiciary, the professionalism of judges and prosecutors and above all the corruption which eats at the heart of the justice system."⁸³

As the most recent developments in the Albanian political scene indicate institutions are quite often subordinated to political expediencies. Until recently they were used to support and consolidate the rule of the political party that was in power. A new development, that is indicative of the extent to which state institutions have been subordinated to political interests, is the use of these institutions by political factions within the ruling party. This pronounced lack of independence has bred a phenomenon that until recently had become one of the defining characteristics of the Albanian democratic experience; the boycott of institutions.

After every contested electoral process the opposition has walked out of the parliament. Institutions have not been able to fulfil their role as forums in which the political debate takes place and where conflict is channeled and managed democratically. This has created a vacuum that has produced alternative institutions, the most important of which is the international community and especially the OSCE Presence Mission. Other informal institutions where politicians, foreign diplomats, opinion makers, media, and civil society representatives meet are

⁸³ Albania: State of the Nation. ICG Report No. 111, 25 May 2001.

luxurious hotels like Rogner or Hotel Tirana. More political activity takes place in these informal institutions in one day than during a whole month in the Albanian Parliament. Of course, the strengthening of these alternative institutions tends to weaken the democratic and accountable institutions where the political debate ought to take place.

A Contested Democracy

One of the major reasons why the institution building process in Albania has proved to be so difficult is because one of the pillars of democracy, free and fair elections, is still an unachieved objective for Albania.

The first pluralist parliamentary elections in Albania were held in March 31st 1991. Although the Albanian Labor Party (the Communist Party) remained in power, the elections portended fundamental changes in the Albanian society and politics. The Democratic Party, the first opposition force in the communist regime in Albania had won sweeping victories in the major cities of the country. The climate of radical changes that had already taken place in the former communist East forbade similar transformations in Albania. In less than a year the country embarked on early elections that brought to power the Democratic Party replacing the communists who had been ruling the country for almost half a century. These elections were held in a tense political climate and in some cities the police and the security forces, although supposedly de-politicized, marred the process by aiding the candidates of the Communist government. However, the elections of March 22nd 1992 confirmed the popular desire for change and opened up the way to political, economic and national security reforms. The Albanian Labor Party was ousted from power after ruling for half a century. The 1992 elections, that were the only uncontested parliamentary elections in Albania, are not representative of the electoral processes that took place later on, since they brought about a change in regimes more than a change in government.⁸⁴

In May 26th 1996 the periodic parliamentary elections were held. This

⁸⁴ The first pluralist elections in Albania took place in 1991. Although they were recognized by the opposition they were organized at a time when the Labor Party (The Communist Party) was still in power. As such they do not qualify as a test since Albania did not qualify as a democracy at the time.

was the first of the many tests the fragile Albanian democracy would fail. The Socialist Party (the former Communist Party) the major opposition party at the time along with some other smaller parties, such as the Democratic Alliance and the Social-democratic party walked out of the electoral process in its concluding phase, condemning it as an electoral charade. The socialists and their allies did not recognize the election results and boycotted the parliament that resulted from these elections.

The local elections of the same year (October 1st 1996) re-confirmed to a certain extent the results of the parliamentary elections, but this did not improve the tense political situation and the country was rapidly slipping into chaos at the pace of the pyramid schemes collapse. The Socialist Party and its allies exploited the popular resentment associated with the loss of savings by such a collapse and placed themselves on the steering wheel of popular protests combining their political agenda with the public's demand for the return of the lost savings.

The country, once again began to prepare for early elections that were held in a very tense and chaotic climate, which obliged the state authorities to invite an international peace-keeping force. The parliamentary elections of June 29th 1997, held under extraordinary conditions brought to power the Socialist Party and its smaller allies, the Social Democrats, Democratic Alliance, the Party for Human Rights.

The Democratic Party did not recognize these elections as free and fair. Its candidates were banned from entering half of the country's territory, that was under the control of armed gangs and/or socialist leaders. Of course, these elections fell quite short of any democratic standards that define free and fair elections. Their primary objective was to put an end to the widespread anarchy and bring a minimum degree of normality to domestic developments. In fact the political parties had a preliminary agreement to recognize election regardless of their results. The Democratic Party while recognizing its defeat never accepted the elections as free and fair. The consequent political strategy was a temporary boycott of the parliament by the Democratic Party, now in opposition. A few months later the Democratic Party entered the parliament only to walk out again together with its allies.

In October 1st 2000 periodic local elections were held. Local government was in the hands of the Democratic Party at the time. These elections were won by the candidates of the Socialist Party.

The Democratic Party did not recognize the results of these elections, claiming that the electoral process had been manipulated and calling on its wining candidates to boycott municipal and commune councils.

In June 24th 2001 parliamentary elections were held in a very confrontational political climate. This was the second test, after that of 1996, in which domestic actors had to show whether they were capable to conduct electoral processes that would be accepted by all the parties involved. The preparatory period did not bode well for the future of the electoral process. Taking advantage of a legal vacuum, the government tried to get an edge in the coming elections through independent candidates. Through this legal trick the government could get twice the number of places in the parliament for the supposedly independent candidates. It was only through the intervention of OSCE and the international community that such a move, an otherwise blow to the electoral process, was avoided. The first round of elections showed that the competition was tough, none of the two major parties winning a clear majority. The election process continued in five rounds and many candidates, mainly from the government, turned to the constitutional court which in turn ruled in favor of many socialist candidates.

Elections were postponed in one of the one hundred electoral zones. The opposition claims that this was a premeditated action on part of the government through which the Socialist Party secured seats in the Parliament for its three minor allies. During the election process in this zone the Socialist Party delivered its proportional vote to its allies, which could not have otherwise reached the proportional threshold to gain seats in the parliament. More than ten MPs were elected in one electoral zone alone. This meant that the government secured more than 84 seats, the necessary number to elect the President.⁸⁵

The opposition, united in the Coalition for Victory, denounced the June 24th parlamentray election results, claiming that the process had been manipulated. The opposition has set as a precondition for its entry into parliament the return of those seats that it considers stolen by the

⁸⁵ According to the Albanian Constitution the President is elected with three fifths of the vote by the parliament. (84 votes out of 140 seats). If , after three rounds of voting the parliament does not succeed in electing the President, the Constitution provides for the disbanding of the parliament and the holding of new elections. There is a debate going on in Albania currently, a debate initiated by the leader of the Socialist Party who has proposed a constitutional amendment so that the President can be elected through the direct vote of the people.

Socialist Party claiming as its strategy the institutionalization of the free vote.

Lack of Legitimacy

As mentioned above, contested elections and weak institutions have meant reduced legitimacy for all the Albanian governments during the transition period. In order to better understand and evaluate legitimacy as a phenomenon in the case of Albania we shall focus on three main elements that vest a government with legitimacy: Democratic Procedures, Democratic Governance and Efficiency.

Democratic Procedures

One of the most important elements in democratic procedures are free and fair elections. As it has been shown above, in the Contested Democracy section, free and fair parliamentary elections, with the exception of the 1992 ones, have not yet become a reality in Albania. Therefore, every government that has come to power, especially after 1996, has been lacking in legitimacy in this respect. Moreover, elections that do not meet democratic standards are a tradition in Albania, they feed on and breed a permanent state of crises.

Democratic Governance

Given the slow and often failed institution building process, governance in Albania has not been democratic so far. It has not promoted political dialogue, nor has it succeeded in mitigating the tense political climate in the country.

Thus, during Berisha's government although the country enjoyed considerable stability, democratic governance was undermined by some questionable acts of the Berisha administration. "The flawed justice provided in trials of former communist leaders, included socialist party leader Fatos Nano for corruption or misuse of power... Overshadowed the question of the actual guilt of those charged". The removal of the chief of the Court of Cassation Zef Broci by questionable means in

1995 heightened concerns about the independence of the judiciary.”⁸⁶ Also the Law on Genocide which denied to former high ranking communist officials the right to compete in elections.

During the Socialist governance a blow to the political climate of the country was the arrest of six former high ranking officials of the Democratic government, among whom the former minister of defense Safet Zhulali, in August 1998. They were accused of genocide and crimes against humanity. This action took place at a time when the tense political climate in the country had just began to normalize and when a debate on the draft constitution and its ratification was underway.

However, the final blow to any prospects of normalization that brought Albania to the threshold of new anarchy was the murder of Azem Hajdari, head of the Defense Commission in the Albanian Parliament. A former leader of the student movement that generated the creation of the first post-communist opposition, Hajdari was brutally murdered in front of the Democratic party headquarters. The fragile stability was wrecked, disturbances and riots broke out in the capital and DP supporters clashed with the police force while attacking Premiere's Office and other state institutions.

The 2001 elections did not bring any substantial improvements to democratic governance, despite some initiatives to cooperate with the oppositions, such as in the area of anti-corruption. Yet it is fair to say that this is due more to political expediency, in view of the present Socialist crises, rather than genuine political will, which would have been demonstrated in a revision of the serious shortcomings of 2001 elections.

One of the most serious obstacles to democratic governance has been a corrupt, inefficient and dependent justice system. The judiciary system has failed in two aspects: 1) It has failed to be Independent, and 2) It has failed to fulfill its constitutional mission and legal obligations.

The failure in the reformation of the judiciary can be attributed to both the executive and the judiciary itself. The executive has

⁸⁶ OSCE Report

obstructed the creation of an independent judiciary in order to use it for political ends. The judiciary on the other hand has not been reformed due to its high levels of corruption, a level of corruption that has been sustained through the political immunity the executive has vested it with. For this reason government failures in fighting corruption and illegal trafficking have been blamed onto the judiciary. The latest dismissal of the Chief Prosecutor, although made on charges of failure in the fight against crime, corruption and trafficking was above all a political maneuver, made at the very time when this office began to investigate certain abuses by high ranking officials. Given the timing and the fact that the prosecutor begun to investigate only those officials publicly accused by Nano, he was perceived as part of the political struggle.

Corruption in itself cannot be fought without a functioning and clean judiciary. Corruption has become a malaise of the Albanian system, widespread at all the levels of the administration has become a serious obstacle to efficiency, thus undermining legitimacy. There is a widespread popular belief that Albanian politicians are very corrupt, this in turn has reduced public trust in the government and state institution, combined with the above mentioned corrupt and dysfunctional state institutions the efficiency of the state in collecting revenue, implementing and making policies, has been undermined.

Despite the reportedly alarming levels of corruption and the abundant anecdotal evidence that points to its widespread presence, corruption has still to be clearly defined, at least for the general public. Right now corruption is being identified as the cause and effect of all evil, extending into the political, economic and social domain. Nevertheless, a serious study of any possible discrepancies between public perceptions of corruption and its actual levels has still to be undertaken. In absence of such knowledge perceptions of widespread corruption might beget even more corruption.

Lack of efficiency as demonstrated by the low economic performance, inability of the state to provide basic necessities, such as electricity and water-supply, the absence of development policies and strategies, combined with an unstable political situation and weak institutions have eroded the legitimacy of the domestic actors, that of the political elite as well as that of government. Under such circumstances, especially

after 1997 crises, international community has become a very important source of legitimacy for the Albanian governments.

International Community

First of all it is important to emphasize that the international community has become increasingly involved in Albanian domestic politics since early nineties not only due to the collapse of communism, but also because of security considerations, such as the prevention of the southward spread of the Yugoslav conflict. After the 1997 crises the International community has become an important player in the Albanian political scene, as indicated by the depth and spread of the OSCE presence not only in the capital but also in several major cities. This has happened due to the inability of the local actors to deal with domestic challenges and cooperate with each – other.

In its initial phases the international community performed a mediatory role between the two major political parties that given the acute crises refused to cooperate with each other. Later on, since the domestic actors remained unable to find a common language in the continuous unstable political situation in Albania, that required further presence of the international community, the latter's role was transformed from a mediator's into an arbitrator's.

From Mediator to Arbitrator

Such a transformation should be primarily attributed to the tense political climate in Albania since the 1997 crises. The confrontational nature of Albanian politics, the continuous inability of the Albanian political elites to cooperate with each other, the shortcomings of the electoral processes, the alienation of the opposition, as well as the internal crises in the Socialist Party, that has also been reflected in governance and the paralyzed the administration have created a climate in which the verdict of the international community tends to be considered as final by both political parties.

Third Party Dependency

While the contribution of the international community should not be

understated, it has been argued that the international community has developed a third party dependency in the Albanian political scene. Four years after the 1997 crises Albanian politics has grown even more dependant on international mediation and arbitration. This has undermined institutional building processes since Albanian politicians have become increasingly prone to rely on international interventions rather than sit and negotiations with each other.

This in turn has meant that the Albanian political elite has become even more reluctant to search for consensus or compromise, while devoting more time and efforts to winning the sympathy of important international actors and institutions. This situation has deteriorated, partly due to domestic structural factors such as weak institutions, and partly due to the absence of an exit strategy by important international actors

Remote Governance

There is a widespread perception in the general public that most of the important decisions about Albanian politics are taken with the blessing of the international community. The omnipresence of foreign diplomats in government and political activities is one of the factors that has bred such perceptions. Furthermore, in the absence of domestic development strategies, the Albanian government seems unable to negotiate with foreign organizations regarding the implementation of their policy recommendation, but rather it takes these recommendations at face value, adopting them as its own. In view of a very poor tradition of public participation in governance, this process has further undermined public initiatives to participate in governance. The decision making process has become so remote that the general public feels it is beyond its reach.

International Agenda vs. Local Priorities

The degree of Western involvement in the Balkans has been proportional to the destabilizing potentials of the region. Therefore, stability in the region took precedence over democratization. Although western countries do view democratization and security as interrelated and interdependent its short run policies have given precedence to stability over democratization processes given the acute security threats

in the region.

In this context Tirana was viewed as an important actor in the Balkan politics in view of the unresolved Kosovo question and the large Albanian minority in Macedonia. Thus, one of the top priorities in the agenda of the international community has been the stabilizing role of Tirana in the Balkans. Therefore, one of the main criteria against which Albanian governments have been judged has been Tirana's foreign policy with regard to the Albanians living abroad. As long as the Albanian government played "a constructive role in the region", other deficiencies, such as undemocratic practices, corruption and trafficking, were overlooked.

Had there been a better understanding of the internal Albanian dynamics by the international community, it would have become clear that the above approach was unjustified. Local priorities in Albania do not include expansionism or a preoccupation with the national question. Governments are not voted in or out of office because of their foreign policy stands. The Macedonian crises of 2001 was the best example in this respect, since it did not even make it in the debates that preceded the June 24 parliamentary elections.

It is important to emphasize that a partial shift has taken place in the international agenda after the 11th September attacks, more emphasis being placed on the fight against terrorism and trafficking. These highlighted priorities of the West coincide with certain domestic priorities such fighting corruption and illegal trafficking.

Yet, the unresolved Kosovo question and the fragile stability in Macedonia have tied the international community to a regional stability approach, which is not justified. The Albania question in the Balkans does not appear in the traditional form of a mother country that is pursuing irredentist goals. Throughout its history Albania has never played the role of a mother country. A weak and vulnerable state, Albania has always been preoccupied with its own survival. The best way to achieve this was by not focusing on the national question. This was a clear dimension of the Albanian foreign policy during the interwar period as well as during the communist era. The Albanian foreign policy became more assertive following the collapse of Yugoslavia and communism. However, even in this case the prevention of the conflict remained the overriding concern.

Recommendations

In view of the present state of democracy in Albania and its experience in the last decade of transition, below are some recommendations regarding steps and policies that should be implemented in order to promote democratization and hence stability.

- *Political Parties*

It is important to realize that in Albania, political parties are some of the most important and self-sustainable institutions. Neither, the judiciary nor any other institutions are the guardians of the Albanian democracy as much as the two major political parties. Whenever opposition weakened, Albanian democracy weakened. Greater democratization within these parties will be eventually reflected in the democratization of other state institutions, and vica-versa. So, it is important that more investment should be made in building the capacities of the political parties, providing training and improving their efficiency and democratic culture.

- *Political Consensus and Institutions*

In reaction to political problems in Albania, and the decline of public trust in the ability of the Albanian politicians to cooperate international community has promoted policies that promote the independence of institutions from political tutelage. It was thought this "independence" would guarantee fairness and credibility. However, in two very illustrative cases such as Central Electoral Commission and the Judiciary this did not turn true. One of the reason why this happened is that the civil society in Albania has not yet developed capacities to perform the functions of credible arbitrators. Civil society organizations in Albania are not products of civil movements that could endow them popular legitimacy. They resemble more parallel bureaucratic structures to the state bureaucracy. Democratic and Socialist Party are the only successful civil movements of the Albanian transition. Thus the success of the electoral processes and the functioning of the judiciary does not depend on the legislative improvements alone, but first and foremost it depends on the political will of the main players.

At the heart of the functioning, organization, and structure of the judiciary there should be a political agreement that should ensure the longevity and immunity of the judiciary system. Practices in the

international arena lead us to believe that the best long term solution, as far as the judiciary is concerned, could be a political agreement that regulates appointments to the highest levels of the judiciary and the justice system. Such an agreement would guarantee the independence of these institutions from the purges that follow electoral processes.

In the same fashion it should be recognized that the Central Electoral Commission is a political institution. The emphasize should not be on creating an independent institution, which could prove to be very illusory, but rather in creating a representative institution where political alternatives fairly participate.

- *Electoral Reform*

The present electoral system in Albania is a SMDS one (Single Member-District System) combined with a proportional system. The electoral system is primarily a SMDP one since 100 out of 140 seats are allocated through SMDS, whereas the remaining 40 are allocated proportionally while respecting the SMDS ratios. Such a system tends to perpetuate the two major political parties and does not create room for new political alternatives to gain meaningful representation. Therefore a more proportional electoral system should be favored in order to enrich the political offer to the electorate.

- *Restore Parliamentary Democracy*

One of the main virtues of a parliamentary democracy is the concentration of power. The head of the executive is also head of the winning political party so that there is a clear line of responsibility and accountability. This has rarely been the case in Albania that is supposedly a parliamentary democracy. As the most recent crises indicates the separation of powers between the chairman of the party and the premiere is a recipe for future crises as both of them will struggle for the control of the parliament and the party while shifting responsibility to each other for any short comings of the governance.

- *Fighting Corruption*

The fight against corruption remains one of the major challenges for Albania, and has serious implications for the future governance. At the present time a momentum in the fight against corruption, due to recent political developments, is beginning to take root in the media and the public agenda. If the fight against corruption is to succeed this momentum should enter governments agenda and the justice

machinery and not wane.

- *Regional vs. Domestic Stability*

While the support and assistance of the international community remains crucial to the future prospects of Albanian democratization, it is important to emphasize that governance in Albania should not be appraised in terms of its destabilizing potential in the region. As it has been shown above the myth of “Greater Albania” is not a factor in the internal dynamics of the country, consequently priorities lie with domestic challenges, such as basic services, corruption and trafficking. Therefore, these should be the criteria against which governance should be judged by the international community. In fact Albania has become a destabilizing region not in the “Greater Albania” framework, but when governance has failed to accomplish the above priorities. The 1997 crises stand witness to this fact.

- *Stability vs. Democracy*

In Albania due to a prolonged crises situation, stability is emerging as the panacea of the Albanian conundrum. Therefore, quite often democratic procedures, standards, and governance have been sacrificed to stability considerations. This in turn has resulted into a stultifying and unsustainable stability which in return has amplified and perpetuated a climate of crises. Stability became a status quo approach that postponed and did not resolve the issues. Therefore, developments within Albania should be judged not on merit of the so called “stability considerations” but against democratization processes.

- *Strong Institutions vs. Strong Individuals*

Until recently, there was a prevailing belief that Albanian politics was being held hostage by certain powerful political actors. Their withdrawal from the political scene was viewed as a prerequisite to the normalization of the country. Yet, support for change was channeled through individuals and not institutions, perpetuating old political phenomena, undermining institutional building processes.

- *Consistency in Democratic Standards*

One of the most important measures to be taken in order to overcome the “stability phenomenon” and promote democratization is by upholding consistent standards regarding free and fair elections. Unfortunately, Albania has not yet passed the test of free and fair elections. A tradition of compromised, yet acceptable, electoral

processes is taking root in Albania. Such a phenomenon seriously undermines Albanian democracy.

Annex I.

Civil society and media

Despite the progress made during the transition period, Albanian civil society remains weak and not well organized. One of the reasons for this is that Albania was one of the countries where the state had absolute control and penetrated every aspect of the society. This legacy has been and still is one of the major obstacles to a thriving civil society where individuals come together to have a say on and influence government decisions that directly affect their lives.

The Albanian State at present is very weak. This has impoverished the interaction between the civil society on the one hand and government on the other. Very weak state institutions have been detrimental to a thriving civil society since they could not guarantee the necessary rule of law vital if civil society is to grow.

Albanian civil society has not been able to assume the role of the honest broker. It still reflects divisions that are prevalent in the Albanian society, and at times it carries with it the confrontational nature of such divisions. At times Albanian civil society tends to be an extension of certain political elite.

For quite some time Albanian civil society was identified through small groups of peoples or individual communities sharing the same ideas and closed to individuals with alternative views. The impact on the Albanian society at large was negligible since the civil society did not become the source of alternative views and approaches to the challenges Albania was being faced with. Thus, the Albanian civil society remained a closed, unrepresentative circle for quite some time, having thus little impact on the Albanian society.

The contribution of the Albanian civil society during the transition has been limited also due to the fact that political elite neither encouraged nor were willing to accept this contribution. Even when they did they tried to manipulate and distort it to their own interests. In the case of the Democratic Party rule for example, independent civil society organizations were looked upon with suspicion by the Democratic Party,

and at times were considered supporters of their political enemies.

The Socialist Party on the other hand both when in government and in opposition has had a different approach towards civil society. The Socialist Party has not expressed enmity towards independent civil society organizations. Yet it seems that more than attracting qualified thought from these organization the Socialist Party has been interested not to alienate these organizations and make peace with them. This strategy has been reflected in the fact that civil society representatives have been offered high ranking positions in the Socialist administration, in order to show cooperation with civil society rather than to implement any alternative views and thoughts.

Despite the above mentioned difficulties certain citizen initiatives and ideas put forth from the civil society have taken root. Dozens of NGOs in the fields of human rights, media and research have been increasingly influencing both the policy makers and the public at large. Especially during the last five years Albanian civil society has been growing in strength and importance, trying to create its own alternative voice. This voice is still too weak to influence decision makers, however it is having its impact on democratic developments in Albania, even if only by the mere virtue that it exists.

One of the major problems Albanian civil society is faced with at present is the lack of funding needed to make it sustainable. Most of the funding, if not all, comes from international donors, which has bred a dependency relationship. A relationship that is very disturbing since there is a tendency on part of civil society organizations to accommodate in their projects the objectives of the donors rather than the priorities and needs of the country.⁸⁷

Media

The effects and assistance of media in the processes of democratization in Albania have been visible and appreciated in the first decade of the transition. The emergence of the opposition press in the beginning of the 90s has been a historical event for a country where the bunker symbolized the communist press. Press has provided huge assistance to the democratic processes in the beginning of transition. The pluralist press served as a forum for open debates and

⁸⁷ Human Development Report for Albania, UNDP 2000, p71.

as an instrument that mitigated social tensions. The press uncovered the hidden truths about communism to the Albanian public after 50 years of totalitarian regime. The controversies were therefore dealt at the press rather than having ugly manifestations of revenge on the streets.

Tendencies that reflect communist mentality and aimed at the total control of the media re-surfaced later on. The government exercised specific control especially on the national public television, leaving little to no space to the opposition party.

During the past four years, we have seen a visible progress in both print and television media. Practically it is not anymore possible for the government to retain control over the television media since several private channels have developed in Albania.

If the recent parliamentary elections had significant improvements, it is mainly due to the development of private television media. Many debates among the candidates in the political elections in both the local and central levels occurred in these private media outlets. Apart from mitigating possible conflicts, media provided the public with the chance to know better the candidates and their alternative programs. According to the final report of ODIHR on the parliamentary elections held in June 24th "Albanian private media gave in general quite balanced coverage of all political entities, as opposed to previous experiences."⁸⁸

The print media has also improved significantly. The role of the party-affiliated press, which is dominated by the two main political parties in the country, DP and SP, has been reduced lately. There is however an effort to form the professional independent press in Albania, which has not succeeded yet.

Financial unsustainability and inadequate management of the media outlets are major obstacles to creating a professional independent media. Local medias, particularly outside the main towns, suffer the most from conditions of poverty. Economic pressures can be easily translated into political ones, as well.

From a legal point of view, press in Albania is free, but this freedom is often abused. As the press has not developed a proper sense of responsibility, the quality of coverage varies a lot. Since there is little respect for the code of ethics, human rights and other liberal democratic

⁸⁸ Final Report on Albanian Parliamentary elections 2001. ODIHR.

values are not ingrained in the journalist's work.

Further legislative initiatives are needed to raise the media standards in Albania. There are currently indications from the government that it will undertake such initiatives. The recent parliamentary elections and the current crisis within the Socialist Party are hampering this process.

Annex II.

“The Myth of Greater Albania”

Although it has been traditionally viewed as the motherland of all the Albanians living outside its borders, Albania has never been able to live up to this image. A very weak and vulnerable state, Albania's major concern has been to ensure its own survival. The best way in which this could be done was not to get involved in the Albanian national question. This has been a clear dimension of the Albanian foreign policy both during Zog I and the communist regime.

The Albanian foreign policy became more assertive following the collapse of communism and the disintegration of Yugoslavia. However, even in this period the prevention of the conflict remained the overriding concern. The war in Yugoslavia presented an ominous threat from Serbia. If the war spread to Kosova, then Albania would have, ultimately, been dragged into it as well. Such a development would have been catastrophic for Albania whose “armed forces were grossly inadequate for the country's defence”,⁸⁹ and in addition, was going through one of the most difficult periods in its history. A general situation of turmoil prevailed as the communist system was collapsing and the country was moving toward pluralism. The internal security had been broken and the country was experiencing a severe economic and social dislocation that had reduced Albania to total dependence on foreign assistance.⁹⁰ The avoidance of war became the overriding foreign policy objective. In addition, as noted earlier, the policies of the Communist regime in Albania had weakened the nationalist feelings among the population. The government could not mobilize the population to wage a war. The attitude of political parties in Albania

⁸⁹ Biberaj, *Albania in Transition*, Westview Press, 1998, p. 251

⁹⁰ Louis Zanga, “Albania Reduced total Dependence on Foreign Food”, *RFE/RL Research Reports*, Vol. 1, No. 8, 21 February 1992.

toward Kosova was not a factor that influenced the election results.⁹¹

In the same fashion Albanian foreign policy could only be aiming at promoting stability in Macedonia while avoiding any disturbances that Belgrade could exploit. Although the disintegration of Yugoslavia further fragmented the Albanians in the Balkans, the establishment of an independent Macedonian state was in the interests of Albania and Albanians in general. The decision of Macedonia not to remain in the Rump Yugoslavia weakened the regional standing of Serbia and separated Greece and Serbia. In addition both Albania and Macedonia had similar interests since they were both being squeezed by the Greeco-Serb axis⁹² and could offset some of the pressure by developing close economic and political ties.⁹³ Due to this considerations Tirana strongly supported Macedonia's stability and independence and urged the Albanians of Macedonia to work towards this end. While Albania showed interest in the well being of the Albanians in Macedonia the issue was not the main factor shaping bilateral relations. As we trace the development of Albanian – Macedonian relations we notice that the overriding security concern – stability of Macedonia – prevailed over other concerns. This was obvious even before Macedonia became officially recognized by Tirana. Thus, as it was already shown above, Tirana and Prishtina did not support the referendum for territorial autonomy of the Albanians in Macedonia.

Notwithstanding Macedonian authorities' failure to address any of the Albanian grievances Tirana was one of the first states to recognize Macedonia. This dimension of Albanian foreign policy toward Macedonia remained unchanged. During the critical period when Greece imposed an embargo on Macedonia, which combined with the UN embargo on Yugoslavia proved disastrous for the Macedonian economy, Albania (and Bulgaria) provided Macedonia with alternative trade routes without trying to capitalize on Macedonia's weakness. Although the relations between Macedonian authorities and Albanian in Macedonia provided considerable room for intervention Tirana did not exploit it.

⁹¹ "Keeping Out", *Economist*, 5/21/94/ Vol. 331, Issue 7864, p. 65.

⁹² Quoted in John Shea, *Macedonia and Greece*, pp. 281-82, 338

⁹³ Vasil Turpovski, "The Balkan Crisis and the Republic of Macedonia", in Danopolous and Messas (eds.) *Crises in the Balkans*, Boulder Colo: Westview Press, 1997, pp.141-43

The 1997 disturbances in Albania following the collapse of pyramid schemes brought to light an important dimension of the Albanian role in the inter/intra-Albanian relations. Immediately after the 1997 crises Albania not only ceased to be a factor in Balkan politics, but also presented to the world the image of a country that was unable to govern itself, which undermined the quest of Albanians in Kosova for statehood and that of the Albanians in Macedonia for greater rights. However, the collapse of the Albanian state did not force the Albanians in Kosova and Macedonia to reconsider their objectives. Their political agendas reflected this community's historical experiences and the dynamics of power in their particular and immediate environments. It is for this reason that the programs of Albanians in Kosova and Macedonia differ from each other. The first pursuing independence, the other equal rights within the state.

To conclude the Albanian national question in the Balkans does not appear in the traditional form of a mother country that is pursuing irredentist goals. The impetus for changing the status quo did not come from Tirana, but from Albanians in Kosova and Macedonia.⁹⁴ Because Albania has never been able to fulfill its role as the mother country, the political class of Albanians in Prishtina but also of Albanians in Macedonia, cannot accept a paternalizing attitude from Tirana. Therefore the answers to the Albanian question should be found in Prishtina and Skopje.

Annex III.

The Albanian Transition Economy

Introduction

As a result of the economic and political self-isolation for almost two generations, Albania entered a deep economic and financial crises in the late 80s and early 90s. The 80s were years of an accelerated and serious decline in production, of major macroeconomic imbalances, both internal and external, a general crises in management and infrastructure, and a drain in the foreign exchange reserves as well as the creation of an external debt for the country.

⁹⁴ This has been clearly shown also by the latest crises in Macedonia. It is important to note that for the Albanians of Macedonia any changes of the status quo were to take place within the framework of a Macedonian state.

Albania's experience, like that of some other transition economies, showed that some reforms could be effected quite rapidly; markets could be liberalized, obstacles to businesses and foreign exchange controls could be removed. All these reforms took place in Albania by the end of 1992. Macroeconomic stabilization was established at a fast pace through a limited number of fiscal and monetary measures (see Table 1). As the figures indicate, budget deficit and inflation were brought under control by the government within a relatively short period of time. Despite this preliminary measures Albanian economic transition has shown that the implementation of structural reforms and market institutionalization are difficult long term processes. While privatization processes might be effected in the short term, changes in corporate governance require much more time. In the same fashion, developing market institutions, such as financial and legal systems, are processes that can only take place in the very long run.

Macroeconomic stability, a prerequisite for sustainable economic growth, is a necessary but not sufficient conditions for a thriving market economy. Strong institutions, clearly defined and well established property rights and an effective judiciary are vital components of a well functioning market economy. The stabilization process and the progress of reforms began in 1993 came to a halt in 1997. The collapse of pyramid schemes in 1997 and the consequent disturbances paralyzed the economic life of the country.

Economic Growth Performance

According to EBRD (2001) assessments, by the end of 2000 Albanian economy reached pre-transition production levels. With the exception of 1997, production grew in real terms, at a yearly average of 9%. During 1997-2000, GDP growth was at a yearly average of 7.7%, as compared to 3.8% in Bulgaria, -0.2% in Romania, and 3.9% in Macedonia.⁹⁵

Although the above figures rate Albania in the category of countries with a certain degree of economic success, they should be evaluated within the Albanian context. First of all GDP per capita in Albania remains one of the lowest in the region (at around 1100 USD at the

⁹⁵ Ricardo Faini, 2001 "Macroeconomic stabilization during the transition - Albania's experience in a comparative perspective" Preliminary draft, December 2001.

end of 2000). Economic poverty is wide spread and thus remains a serious issue as reflected by inequalities in the distribution of income (Gini coefficient was 0.43 for 2000).⁹⁶ Unemployment is still very high, and remittances from emigrants working abroad remain the major source of income for a great number of Albanian families (Shehi, Gedeshi, 200; Beka, 2001).⁹⁷

So, economic growth has resulted through extensive production means, boosted by the privatization process and the promotion of the private sector. Technology continues to remain backward, technologic renovation being still in its embryonic phase.

Structural Reforms

As far as structural reforms are concerned , the average transition indicator (EBRD, 2001) rates behind other transition economies (with the exception of Bosnia-Herzegovina). The major shortcomings are in the areas of massive privatization, restructuring of state enterprises, market competition policies and the reforms in the financial system.

Privatization

The process of the privatization of state industrial and commercial enterprises can be considered completed by the end of 1999, while this process has now been extended to those economic sectors of a particular importance for the Albanian economy (strategic sectors), such as the banking, telecommunications, mining, and energy sectors.⁹⁸

Taking into consideration the existing administrative capacity as well as the level of development of markets and financial institutions, the

⁹⁶ Qeveria Shqiptare, 2001 "Strategjia Afatmesme e Zhvillimit Ekonomik dhe Social", nëntor 2001.

⁹⁷ Dr. Dashamir Shehi, Ilir Gedeshi, 2001 "Roli i remitancave të emigracionit shqiptar dhe ndikimi i tyre në ekonominë e vendit", Qendra e Studimeve Ekonomike dhe Sociale, Tiranë, 2001; Ismail Beka, 2001 "Albania - ËTO membership and impacts on agricultural and trade policies", Draft paper.

⁹⁸ V.Pano, Ministria e Ekonomisë Publike dhe Privatizimit, 2001 «Privatizimi masiv në Shqipëri», mbajtur në konferencën «Shqipëria midis reformave të brendshme dhe integritetit Europian», dhjetor 2001.

massive privatization process applied in Albania was simple and different from that applied in other transition countries. Taking into account the scarcity of domestic capital such a privatization process aimed a quick and egalitarian transfer of property in order to increase the credibility of reforms. An accelerated privatization was deemed necessary in order to thwart any resistance on part of employees and other interest groups.

However, in spite of the initial fast pace of privatization, the lack of clear and comprehensive plan constitutes one of the major shortcomings of the process. It had an ad hoc nature and its was implemented through a series of decisions by the Council of Ministers instead of a Privatization Law. This indicates that the architect of the privatization program did not pay due attention to all the implications of the process. Furthermore, the lack of a political consensus from the very beginning of the privatization process, as well as consequent changes in the privatization strategy, indicate a serious lack of coherence in this regard.

The Financial System

Albania created a two-tier banking system in 1992, transferring the commercial banking activity from the Bank of Albania into the National Commercial Bank. The Rural Commercial Bank of Albania covered the agricultural sector, whereas the Savings Bank had practically the monopoly of the deposits by citizens. By the end of the last decade there were 13 commercial banks operating in Albania, of which only the Savings Bank continues to remain under state ownership. Nevertheless, the percentage of the assets owned by foreign banks that operate in the country is only 35.2%.

One of the major problems in the Albanian financial system is the low degree of intermediary services offered by the financial sector in the country's economy. One of the paradoxes in the Albanian financial system is also the fact that on the one hand there are substantial savings by the population, and on the other the credit level in the private sector is very low. Increasing budget deficits have had a crowding out effect on private investment. Thus, the strategy of privatization of the Savings Bank that has a large weight in the banking sector, and the development of a banking market, are essential objectives in order to create effective intermediary financial services.

The Degree of Openness of the Albanian Economy

In order to assess the degree of openness for an economy, current economic literature measures the volume of foreign trade as a percentage of total economic activity (GDP). The larger this number, the more open and connected to the outer world the economy is.

Degree of openness to international trade; imports + exports as a % of GDP.

Year	1993	1994	1995	1996	1997	1998	1999
Albania	58	38	35.7	43.7	37.1	33.5	32.9

The decreasing degree of openness of Albanian economy does not bode well for future economic growth. The promotion of the export base would lead to an increase of the above indicator, so that Albania could at least reach the levels of other regional economies. An increase in exports is necessary so that the country can finance its chronic current account deficit.

Although the openness indicator has been decreasing over time, it is important to note that Albanian foreign trade with EU has been increasing steadily during the transition period. Currently, Albania conducts 80% of its economic commercial transactions with EU members. Economic commercial activity with Balkan economies (with the exception of Greece) on the other hand is very low. This indicates that the Albanian economy is mostly connected to and integrated with the EU economies.

Therefore, economic developments in the neighboring Balkan countries have an indirect effect on the Albanian economy. The political situation in the Balkans during the last decade, combined with some historical factors, became an obstacle to any serious initiatives for regional cooperation. Currently Albania is concluding its negotiations with Macedonia for a free trade agreement in the framework of the Memorandum for the Liberalization of Trade signed in June 2001.

Regional trade and cooperation is expected to take a boost once projects on regional infrastructure that are part of EU programs for the region take place. In the long run regional integration and regional economic interdependence can be expected to be enhanced simultaneously with the institutionalization of internal markets.

The Corruption and Informal Economy.

One of the major obstacles to Albanian economic development is corruption. According to EBRD (1999), businesses in Central and Eastern Europe pay a corruption tax that varies from 2% of yearly income in Croatia to 8% in Georgia. Although there are no definitive studies on current corruption levels in Albania, it is very likely that the figures for Albania are much higher. Anecdotal evidence regarding high levels of corruption is abundant. Also the public perceives corruption to be very high among state officials.

There also is a very large informal sector in the Albanian economy. Some estimates place this figure at more than 50% of the economy. According to an independent study the informal sector constitutes at least 68% of the internal market. It is mostly present in small trade, transport and construction. Also most of the businesses (73%) declare that they do not declare their real profit because of taxation. The same study reports that employment in the black market occupies a large share of the labor market.⁹⁹

The large share of the informal economy is also evident in the value of smuggling that takes place in Albania. According to a study of the Bank of Albania regarding the level of contraband in foreign trade, the undeclared value of contraband in customs is 40-60 % of the total value of trade.

Annex IV.

Corruption and Organized Crime in Albania

Corruption

For most countries in transition corruption is not an unknown phenomenon. Yet in the case of Albania, corruption has become a threatening phenomena not only for the economy but also for the stability of the country. Most independent sources, the media, investigating bodies and analysts all agree that there has been a substantial increase in bribes at all levels of the state administration. More prone to this phenomena are customs, taxation agencies,

⁹⁹ Qendra Shqiptare për Kërkime Ekonomike, 1999 "Sektori informal në Shqipëri: raport empirik", "Ekonomia dhe Tranzicioni" nr. 1 (19).

insurance balances, agencies that issue licenses for private businesses, education, health services and the justice system. There have been numerous instances when officials in fiscal services or customs have paid sums of money much larger than their yearly income in order to be placed, at times in advanced positions, within these structures.

The widespread corruption in Albania is due to a variety of factors. One of the most important ones is the existing widespread poverty which makes the taking of bribes a necessity in order to make a living. Briberies in the lower levels of administration, where employees very low wages, perform the process of income redistribution while having serious deteriorating effects on the society as a whole. Such a phenomenon has a direct impact in lowering the work ethic and morale in all the levels of society, and thus it makes the fight against corruption extremely inefficient.

The overgrown bureaucracy in the high and medium levels of the state administration is another factor that promotes corruption. Businesses and citizens are forced to pay bribes in all the levels of the administration in order to save time. Generally speaking, the process of application and approval for licenses and other important permits is very long, bureaucratic and thus leaves room for corruption practices.

It is important to note that while corruption is a major threat to economic development and to those values that a democratic society holds dear, in Albania one can argue that corruption has reached the status of an institution. High unemployment, lack of security and the scarcity of investment needed to create new jobs, and the slow pace of the economic reform, high living costs and the absence of political stability have all contributed to the high levels of corruption in Albania.

The fight against corruption has become a prerequisite for democracy and a functioning market economy in Albania. In order to fight corruption through independent and effective institutions certain mechanisms need to be developed. Such institutions are nonexistent in Albania. The Attorney's office does not have a department, the structure or the necessary means to fight economic crime. The General Attorney of Albania assented publicly to the inability of his office to fight the economic Mafia and crime in December 6th, 2001, only one day after the majority leader publicly accused high government officials, including three ministers, for corruption, financial abuses and other major economic crimes. He declared that no investigation will be

conducted for the accused officials since his office did not have the means, the necessary staff and the ability to conduct such an investigation¹⁰⁰.

Other institutions that investigate economic crime, corruption and abusive financial practices, such as the Department of Internal Auditing, have not been effective. The Department of Internal Auditing has been more of a political tool, rather than an institution that monitors the abuses of government funds and tax payers money. During 1992 – 1996, when the Democratic Party was in power, Department of Internal Auditing was mainly used against local government officials that came from the opposition, the Socialist Party. During recent years, 1997-2000 its activity has been focused again on local government officials that belong to the opposition, or against socialist ministers embroiled in political conflict with the Socialist leadership.

The Albanian government has set up a department specialized to fight corruption, even at the ministerial level, but its functioning has remained at the theoretical level. This agency has produced unreliable data and information that could not be sustained at the court and was later on placed into the archives, without having a real impact against corruption. One of the paradoxes is that even when customs officers or high ranking officials were dismissed on charges of corruption, almost none of these cases was taken to court.

The inefficiency of the justice system is reflected in the number of officials that have been dismissed on allegations of corruption. According to the statistics of the Ministry of Justice in 1998 only nine officials have been sentenced on charges of abuse of power. These numbers have been one and five for 1999 and 2000 respectively. Only one official has been sentenced on charges of bribery in 1998, one in 1999 and another one in 2000.¹⁰¹ It is important to remember that these numbers are for the same time period in which Albania has been enlisted as one of the countries with highest corruption levels in South East Europe.

Government officials sustain that numerous administrative measures have been taken against corrupted individuals. During the last 5-6 years a number of customs officers, policemen, and other officials of

¹⁰⁰ Declaration of the General Attorney's Office, ATA, 6 December 2001

¹⁰¹ Ministry of Justice, Yearly Bulletin 2000.

the state administration have been dismissed on charges of corruption and abuse of power, however in none of these cases there were legal proceedings. Because of such a phenomenon, along with the fact that these officials have close ties with the upper decision making levels of the state administration, and also in the absence of a legal status for the state employees, some of those officials that have been dismissed on charges of financial abuses have been appointed in parallel state structures, regaining immunity before undergoing any legal proceedings.

The width and depth of corruption, bribes, even in the highest levels of state administration and governance has distorted developmental policies, resulting in high unemployment and economic stagnation in many production sectors as well as high environmental pollution levels and chaotic urbanization. The first to suffer is free and honest competition since entrepreneurs have to adopt to these practices in order to ensure the survival of their businesses. In recent years very few small enterprises and businesses have been created. This has happened in spite of the fact that Albanian legislature has been improved, there is almost a decade long experience in dealing with businesses, consumption has increased and labor force has become cheaper. The corrupt and informal business environment has forced entrepreneurs to apply a system of mixed formal and informal practices in running their businesses, rather than sit and wait for the state to put an end to unfair competition and informal economic activity.

Such a business environment is also very unattractive for foreign investors, and in fact foreign investment in Albania has fallen significantly.

Corruption and Security

International condemnation against corruption, trafficking and organized crime in Albania reached its peak in the Albanian-USA and EU – Albanian relations. In October 2001, the USA State Department published a list of countries in which the above phenomena were widespread.¹⁰² The State Department also issued a warning that unless Albania takes the necessary measures to move out of this list by 2003, it will be placed under economic sanctions. EU on the other

¹⁰² State Department Declaration, USA October 2001.

hand, took advantage of the long negotiation process of stabilization and association agreement for Albania in order to step up its criticism of the inefficiency of Albanian authorities to control and fight corruption. Both of these are very telling examples about the negative impact that corruption has on Albania's future prospects.

At the same time, corruption, bribes and other similar abusive practices have a direct deteriorating impact on national security. The events of 1997 clearly indicated that when a government has been implicated in abusive practices with the income of its citizens, when a number of its officials are corrupt, with a justice system that has been paralyzed by corruption and political influences, national security becomes seriously threatened.

Although important steps have been taken since 1997 in building efficient and professional institutions of economic reform, in improving national defense, public order and justice systems, these institutions are still fledgling and not independent enough to guarantee political, economic and social stability. There still exist major destabilizing potentials. High levels of corruption in the justice system, police and other important institutions has a very weakening effect on their efficacy, lowers their credibility making them unable to guarantee internal stability and security for the country.

Organized crime

There have been numerous forms of organized crime in Albania during the transition period. Here again, just like in the case of corruption, organized crime seems to be far more developed and disturbing in Albania as compared to most other transition countries.

Although arms trafficking reached unprecedented proportions at the threshold of the Kosovo crises in 1999, and later on during the Macedonian conflict, the most aggravating phenomenon for the Albanian society ever since transition began has been the smuggling of refugees and prostitutes. Moving from a very conservative and isolated society into a liberal one where extreme poverty forced people into new venues of material gain, Albania for a long period of time became the main country in the region in refugee and prostitution trafficking. According to the information released from the Albanian police force most of the nationals smuggled in prostitution trafficking come from Eastern European countries such as Moldavia, Romania

and Ukraine.¹⁰³ Most of those smuggled as refugees on the other hand come Asian countries.

Child trafficking has also been growing to disturbing proportions. This has not simply been part of the refugee of prostitution smuggling but part of a Mafia network that makes profit out of transplant organs and street children. During 2001 more than 75 children in Italy or Greece were found to be working for such a network, whereas the number of children whose whereabouts are not known by the police is much greater. Terre des Hommes a French NGO that works with Albanian children that have been smuggled to beg in Greece asserts that only in Thessaloniki there are more than 1000 children that beg or work in the street, while they claim that there are more than 3000 such Albanian children in Greece¹⁰⁴.

Its weak border control and protracted crises situation have made Albania the ideal ground for Balkan criminality to thrive, and especially drug trafficking from East towards the West. Only during 1999, 6.5 tons out of 60 tons of marihuana confiscated in Western Europe are thought to have been smuggled from Albania.¹⁰⁵ Thus, Albania and Morocco are considered the two major drug suppliers of Western Europe.

Sources of Organized Crime

Besides the absence of an effective police force, absence of the rule of law and a functioning judiciary system one of the reasons for the spread and depth of organized crime in Albania is the widespread poverty. Due to the scarcity of new jobs and the lack of opportunities to make an honest living organized crime becomes the source of income for substantial segments of the population. Revenue from organized crime becomes crucial for the economy especially in view of declining domestic and international investment.

Another source through which organized crime sustains itself in Albania is through the connections it has established with similar criminal networks from neighboring countries, such as Italy, Bulgaria, Romania

¹⁰³ UNDP, "Human Resource Development Report", 2000

¹⁰⁴ Renton D. "Child trafficking in Albania", Save the Children, 2001.

¹⁰⁵ UNDP, "Human Resource Development Report", 2000

and Yugoslavia. Crime has outsmarted governments in the Balkans as far as regional cooperation is concerned. More than 300 people that were being tracked by Interpol or the police of Western countries for having committed grave crimes, were living in Albania in 1998.¹⁰⁶ This shows that for these criminals Albania had become a safe haven where in the absence of a strong state and strong institutions they could comfortably perform their criminal activity.

One of the major sources that promotes and sustains organized crime in Albania is its connections in high political circles. Enormous revenues from drugs, trafficking, prostitution and other criminal activities are not only invested in the economy but also go into the pockets of high ranking state officials and politicians. Quite often members of the Albanian political elite, including members of the parliament, ministers and premiers have publicly supported and interacted with individuals that later on were found to be heads of economic Mafia, trafficking and organized crime in Albania.

Given its ties with the political elite, the rule of law has not been applied against organized crime effectively. Time and again the international community has asked for more efforts and cooperation on part of the Albanian judiciary in the fight against organized crime. The USA ambassador in Tirana, Limprecht remarked in a meeting with representatives of the Albanian judiciary that "attorneys should better cooperate with the police force, while avoiding the politicization of the legal proceedings. Sentences issued by judges should be proportional to the crime that has been committed."¹⁰⁷ Limprecht's remark touches upon a very delicate deficiency in the Albanian penal code. In the latter there is a lot flexibility regarding the severity of the sentence for a given crime, which means that a lot depends on the will and the professional judgment of the judges, neither of which has lived up to the necessary standards needed to effectively fight organized crime.

Besides these shortcomings in the Albanian legislature another serious obstacle in the fight against organized crime is the lack of cooperation between the judiciary and the police force. The lack of cooperation combined with the low professional capacities of both these institutions has meant that during the last four years only nine individuals have been sentenced for human trafficking, and even fewer have been

¹⁰⁶ "Human Resource Development Report", 2000

¹⁰⁷ Limprecht J., USA Embassy, December 5, 2001

sentenced for drugs and prostitution trafficking.¹⁰⁸

Annex V.

Voter Turnout and Elections Results for the Albanian Parliamentary Elections 1991-2001

1991 Parliamentary Elections

Voter Turnout: 98.92 %

Elections Results as % of Seats in the Parliament

Albanian Party of Labor 67.60 %

Albanian Democratic Party 30 %

Omonia 2 %

National Veterans Committee 0.4%

Source: Zeri I Popullit, 16 October 1997, pp 1-5.

1992 Parliamentary Elections¹⁰⁹

Voter Turnout 90.35 %

Elections Results as % of Seats in the Parliament

Democratic Party 65.71 %

Socialist Party 27.14 %

Social Democratic Party 5 %

Union for Human Rights 1.43%

Republican Party 0.71%

Other Parties no seats

Source: *The Official Gazette of the Republic of Albania*, no 2, May 1992, p. 99.

¹⁰⁸ Ministry of Justice, Yearly Bulletin 2001

¹⁰⁹ First Round of Voting, 22 March 1992

1996 Parliamentary Elections¹¹⁰

Voter Turnout 89.00%

Elections Results as % of Seats in the Parliament

Democratic Party 87.00%

Socialist Party 7.00%

Republican Party 2.00%

National Front 1.50%

Union for Human Rights 2.00%

Source: Rilindja Demokratike, 22 June 1996, p. 2 and 3, July 1996, p. 2.
International Republican Institute, IRI Observation Report on the Albanian
Parliamentary Elections of May 26, 1996 (Washington, D.C., 1996), p. 32.

1997 Parliamentary Elections¹¹¹

Voter Turnout 72.96%

Elections Results as % of Seats in the Parliament

Socialist Party 65.1%

Democratic Party 15.5%

Social Democratic Party 5.8%

Union for Human Rights 2.5%

National Front 1.9%

Legality 1.3%

Democratic Alliance 1.3%

Republican Party 0.6%

Social Democratic Union 0.6%

Christian Democratic Party 0.6%

Democratic Union Party 0.6%

National Unity Party 0.6%

Agrarian Party 0.6%

Source: Central Electoral Commission, Bulletin: Rezultatet e Zgjedhjeve
Parlamentare, Qershor 1997 [Bulletin: The Results of the June 1997 Parliamentary
Elections] (Tirane 1997), pp. 62-63, and 69.

¹¹⁰ First Round of Voting, 26 May 1996.

¹¹¹ First Round of Voting, 29 June 1997.

2001 Parliamentary Elections¹¹²

Voter Turnout 55.59%

Elections Results as % of Vote and Number of Seats in the Parliament

	<u>% of vote</u>	<u>Number of Seats</u>
Socialist Party	41.00 %	73
Union for Victory (coalition)	36.81 %	46
<i>Made up of: Democratic Party, Legality Movement Party, National Front Party, republican Party, Liberal Union Party</i>		
New Democratic Party	5.80 %	6
Social Democratic Party	3.64 %	4
Union for Human Rights Party	2.61 %	3
Agrarian Party	2.57 %	3
Democratic Alliance Party	2.55 %	3
Independents		2

Source: Central Elections Commission

Note. The above data has been mostly taken from official sources. However, OSCE has quite often cited the government of Albania for inadequate voter lists, which in turn put into question the accuracy of statements regarding voter turnout.

¹¹² First Round of Voting, 24 June 2001.

BULGARIA: COUNTRY REPORT ON THE STATE FOR DEMOCRACY AND A ROADMAP FOR REFORM

Institute for Regional and International Studies

STATE OF DEMOCRACY

The period since 1997 has been one of enormous dynamism and reform intensity. This period can usefully be subdivided into two segments: one encompassing the time until late 1999 and the other stretching to late 2001. The former is marked by the rapid implementation of an extensive reform programme, the enhancement of institutional stability through legal codification and enforcement, extensive public support for reform, firm anchoring of Bulgaria in the EU and NATO enlargement scenarios, stability of party system and little electoral volatility. The end of 1999 and the beginning of 2000 provide a turning point in the recent evolution of Bulgarian democracy. The main reasons for the shift can be sought among the following: the continued inability of the political system to deliver public goods in a setting of extensive economic and administrative reform; emergence of a heightened sense of personal insecurity; subsequent decline in public support for radical reform, continued social and economic stratification exacerbated by persistent perception of improper privatization and distribution of budgetary funds.

1997 – 1999 – DEMOCRACY RENEWED

Following the collapse of the socialist government in early 1997 and the massive street protests which helped bring its downfall, there ensued a time of sustained strengthening of Bulgarian democracy. The emergence of a stable, reformist governing majority swept into power by a massive electoral majority allowed the implementation of a programme of radical reform in economy and society. Macro-economic stability, resumption of moderate economic growth, extensive privatization and re-structuring and tax reform – these are a few of the items on a loaded agenda of economic reform. These were accompanied by the complete overhaul of the administrative system,

reform of the social security system, health care, pension system and educational reform. The country was firmly anchored in the frameworks of EU and NATO enlargement coupled with a very active regional policy. Organized crime was contained and crime reduced over this period. Export of organized crime from the conflict areas of the region was largely prevented. In polity, the values of Euro- Atlantic integration were further internalized by the political elites. The party system continued to be predictable as the main opposition, socialist party sought to further anchor itself in the reform agenda. Over the period, public support for reform was sustained at comfortable levels.

The latter part of 1999 saw the beginning of a shift in public attitudes. The continued inability of the political system to deliver effectively public goods, the increasing magnitude of economic hardship due to unemployment and restructuring, the low levels of income even for individuals in employment, the extensive reform of all systems of insurance contributed to a heightened sense of insecurity of individuals. This was exacerbated by the continued social and economic stratification further worsened by the persistent perception of improper privatization and distribution of budgetary funds. The governing Union of Democratic Forces (UDF) began to be perceived as an entity firmly divided in camps whose interests are advanced in the process of privatization and government. The sequencing and intensity of reform had abruptly re-defined central social and economic footholds of individuals, thereby placing them in a situation of extreme volatility. These parameters of developments persisted and worsened through to 2001. Individuals found themselves in a situation of extreme volatility of all major systems accompanied by a sudden reduction and visible ineffectiveness of the involvement of the state and consequently reduced their expectations of state and polity to an extent of extreme political detachment and apathy. Thus, in the summer of 2001, the political system found itself in a situation where the support for the two main parties had shrunk to around 20% each with the remainder of the electorate unwilling to be engaged in politics. There was little credibility for the established political elites beyond their immediate constituents. The vacuum was filled by the movement of the former king, Simeon II on a wave of populism and promise of immediate relief as well as a new morality.

PRESENT STATE OF DEMOCRACY

The contours of the current state of democracy have already been provided and the present challenges can be examined at four distinct levels: volatility of social framework, crisis of representation and legitimacy, crisis of values of public interaction and crisis of the political system. These can be examined in turn.

Volatility of Social Framework

Volatility of social framework has increased due to the continued effects of the misfit between the reform agenda and the short- and mid-term expectations of citizens. The radical and extensive programme of privatization and economic re-structuring has led to unprecedented levels of unemployment and the virtual wipe-out of entire sectors of the economy and the social networks underpinned by economic activity. There has been a systemic process of impoverishment in numerous sectors of economy and society. In addition, there are sectors of society which seem completely unable, in the short and medium – term, to resume employment. Economic recovery has been patchy, in and around the major cities of the country. This has taken place in a context of extreme monetary restriction, which has virtually prevented the employment of many pro-active instruments by the state. The much necessary overhaul of the social insurance, pension and health care systems has resulted in the undermining of basic pillars of social reference and existence, producing enormous personal insecurity and psychological volatility. This has translated into a notable mistrust in the capacity of government to provide a set of services and frameworks which ensure predictability and well – being. In such a mindset, the political is predominantly perceived as the site of improper redistribution and individual enrichment rather than a provider of basic services. Yet, this mistrust has proved compatible with a disposition to expect positive changes in welfare through major, abrupt shifts – mainly through redistribution.

Crisis of representation and legitimacy

The misfit between the requirements of radical reform and expectations of citizens has already been mentioned. This misfit has been worsened by the delay in reform and by the restrictive monetary framework,

thereby further intensifying the negative impact of the shift. The subsequent inability of the political system to deliver public goods and ensure personal security has led to a legitimacy crisis, which found its expression only in the middle of 2001. This is also a crisis of representation, which is difficult to counter for a series of reasons. Firstly, reforms tend to initially disaggregate groups and interests. This has been highly visible in the creation of a rather amorphous group of “losers of reform”. Secondly, group and interest differentiation proceed with the pace of reform and tend to increase towards the completion of reforms with the crystallization of new configurations of interest and grouping. Thirdly, it continues to be seen precisely what forms representation will assume in settings where previous patterns of social linkage have largely disintegrated and economies have been de-industrialized.

There is a larger question that needs to be highlighted here. It is the question of the actual structure of post – transition society and its modes of representation. Structure here could be defined through income, distribution of employment, value frameworks, etc. Bulgarian transition has produced a society largely depleted, through emigration, of its most active and innovative members, a large group of unemployed people through de-industrialization, a slowly expanding, city – based entrepreneurial group of individuals and a large group of retirees. While this is a sketchy description, it provides the elements of post – transition society. The 2001 UNDP Report on Human Development provides an adequate snapshot of structure by employment. 20% of the people are employed in services while 12.1% are employed in industrial production. 4.4% of all individuals own their businesses and only 2.2 % derive their income from employment in agriculture. 2.4% define their occupation as housewives while 2.1 % are employed in either seasonal work or in what they define as casual work. A full 35.4% of the population consists of retirees while 16.5% are unemployed. 4.1% are either in school or in higher education. What emerges is a diverse picture of employment with very high numbers of people who are either past their retirement age or unemployed. On the other hand, the number of individuals in industrial production has declined notably while employment in services, as share of total employment, has continued to rise. Organization membership provides a further important dimension. Only 10.5% of the population is members of a trade union. Within this percentage, individuals in state and industrial employment are much more likely to join a trade union. Those individuals employed

in the private sector and in service industries are much less likely to join such organizations. Given the steady decline in state and industrial employment, the catchment area of unions and their capacity to represent effectively their membership will further decrease in importance.

Other trends in group membership confirm the reluctance of citizens to participate in collective forms of organization. 8.1% of the population is members of a political party while 4.8% have joined their local cultural centers. 4.6% are participants in the work of non – governmental organizations and 4.1% have joined various clubs. Importantly, only 2.3% have become members of their professional or business organizations. Low membership undermines both the capacity of these organizations to ensure effective representation and their legitimacy within the very communities they seek to represent.

This attitude is confirmed by the opinions of respondents in relation to intermediary structures. For instance, only 12% of individuals hold the opinion that non – governmental organizations defend public interests while 15 % are firmly convinced that these organizations seek to protect solely their own interests. Similar distrust in the actual protection and representation of interest can be found for other intermediary institutions. A reflection of the sense of distrust in intermediaries can be detected in the opinions of individuals on the reasons for civic non – participation. 85.6% of respondents hold the view that “they will not be heard” while 75% find a tendency whereby a few individuals “hijack the agenda” to their own benefit. 69.2% of all individuals do not recognize an institution, which is sufficiently capable or willing to represent their views in the public arena. When they have a grievance, 51.7% simply do not know which institution to approach.

It will come as little surprise that in such a setting, citizens have a marked preference for direct engagement. Asked which institutions they would rather have as their representative, almost 44% of all respondents in the UNDP 2001 Report express their preference for the local media. Around 30% would prefer their union to be the active part while 29% expect their local cultural center to be the subject of interest representation. On the question of forms of engagements, an interesting statistic appears. 68.7% of all individuals find referenda as very appropriate in conveying opinion while 68.2% find elections as the most suitable means. Surveys are the preferred option for 40.1% of the people while 36% are in favour of public meetings and

discussions. It is interesting to note that a large group of people (around 42%) recognizes the need to organize collectively in order to present a bill to Parliament. Further evidence of the preference for direct engagement can be found in the attitudes towards the Ombudsman. While there is insufficient awareness of the precise functions of the Ombudsman and its location in the system of institutions, there is widespread support for its introduction. Only 24.7% of respondents think that there are a sufficient number of institutions that deal with grievances. A full 75.3% hold the opinion that there is a clear need for the institution of the Ombudsman.

The issue of emigration has been touched upon only briefly. Yet, this has proven to be a central feature of the evolution of society over the past 12 years. While estimates on emigration vary, a consensus seems to exist that close to 1 out of 10 people have left the country since 1989. Understandably, this has mostly involved individuals in the 18 – 30 age group. Moreover, there is now a persistent propensity to view emigration as one of the major options for personal development. According to the UNDP 2001 Human Development Report, 36.5% of all respondents express a readiness to leave the country with the remaining 63.5% declaring no intention to emigrate. It should be noted that only 8.5% of those declaring an intention to emigrate do not intend to return to the country. The remaining 28% seem more interested in short – term emigration, possibly linked to potential employment in another country. The statistics for the 18 – 38 age – group do, however, present a worrying picture. 67.7% of respondents from this age – group declare their intent to leave the country. 18.8% of those declare that they do not intend to return. The remaining 48.9% express an interest in emigration, which is short – term and purpose – oriented in nature.

What has emerged is a society distrustful of intermediaries and with a distinct preference for direct contact with administration and government. It is a society whose members see little purpose or utility in group membership. In economy, they either seek employment in the public sector or prefer complete self – reliance. In society, they spend little time or effort beyond the nuclear or extended family. In such a setting, it remains a challenge to define the forms and modes of functioning of representation, which would enhance democracy. Clearly, we are not witnessing the emergence of the classical modes of representation around employment, religious and political affiliation. This accounts partly for the difficulties in representation and legitimacy in the post – transition period. The introduction and improvement of

functioning of the forms of direct engagement are one likely source of greater system responsiveness. New skills of the political and administrative elites seem to be required in a situation where interest aggregation and representation are diffuse and emerge in new ways.

The crisis of representation has been exacerbated by the continued ineffectiveness of public administration and the judicial system. The system of public administration has undergone a transformation, which was long overdue. The adoption of a comprehensive package of legislation introducing clear criteria for entry and promotion, paths for career development, clear separation between the administrative and political levels and stability of legal norm has been very useful. Nevertheless, this process has not halted the continued ineffectiveness of administration and the provision of services. Citizen interaction with public administration remains a source of dissatisfaction. The judicial system has been marred by numerous allegations of corruption and systemic inability to handle grievances in a manner, which ensures fairness. Backlog, inefficiency and lack of transparency have meant that access of justice has been severely limited. As a result, one of the main structures of a functioning democracy, ensuring the rule of law has been severely discredited in the opinions of citizens.

Public Interaction

At another level, these phenomena have contributed to a volatility and crisis of core values of public interaction and life. Decline in the basic trust of public interaction, in the ability to define a meaningful time perspective, decline in trust in its sustainability, volatility of pillars of social reference, undermining of the trust in the capacity of public interaction to effect change – these features of society have produced an environment of intense discontent with an irrationalist twist. The ensuing extreme anxiety and personal insecurity produce a situation where rational public and policy discourse and expectations are superseded by a disproportional, irrational expectation in “magical” interventions, which will lead to sudden change of fortune. In addition, these circumstances re-activate modes of traditional interaction. We see the re-emergence of the traditional, immediate, inter – personal, family – based mode of solidarity. What emerges is a mixture of traditional solidarity and extreme individual atomization in any

circumstance beyond the familial. The main expressions of this disposition include the following: tendency to abstain from public and political activity and abstention from voting; increasing volatility of electoral behavior among those groups with weak party identification and tendency to invest a disproportionate amount of expectation in populist, “quick – fix” political programmes followed by intense disappointment upon failure to deliver in the very short – term.

On another note, it continues to be difficult to see the “march through the institutions” of the “1989-generation”. The involvement of the groups and individuals who were at the center of political change at the turn of the decade has been sporadic and difficult to evaluate. To derive an adequate understanding of social change, it is important to be able to evaluate the roles that new generations have played in society, polity and economy. It is crucial to examine the impact that such groups have had at the level of professional communities, administrative institutions, political parties, in business – in all walks of life. Such knowledge has been difficult to obtain through sociological surveys. Change at the level of small groups could rather be examined through anthropological analysis. An estimate of the extent to which new generations have been able to influence the assumptions, values and modes of functioning of various groups and levels of social life could provide important insights.

Crisis of the Political System

In politics, the above – mentioned phenomena have been translated into support for a type of legitimacy based on personal charisma. In 2001, this has been personified by the former king, Simeon II whose movement was swept into power during the elections in June. His “National Movement Simeon II” managed to attain a level of electoral support in the 40 percentile in just over two month’s time. Such movements are a pre-party form of political organization whose cohesion is ensured by personal charisma rather than commonality of vision or interest. In most instances, such movements are predicated on corporatist assumptions about social and political organization. As such, they often espouse an anti – party ideology, positing a critique of factionalism and lack of unity of purpose. The movement of Simeon II claims that it seeks to bring forth a deeper, truer reality of the social body and give expression to its aspirations. The movement employs an organic type of discourse, its whole presence ultimately posited on

a father – figure who is in possession of a unique capacity of knowledge, direction and means. The reluctance to register the movement as a political party then comes as little surprise. The insufficient democratic mechanisms within the movement and its Parliamentary group are another notable feature. Personal charisma is notoriously prone to volatility and is most often short – term in nature. The level of support for the movement has decreased markedly within less than four months in office. According to the UNDP 2001 Report, just over 22% of the electorate would support the former King were elections to be held in November 2001. The rate of approval for his government has also slumped. According to the December 2001 Survey of Alpha Research, a sociological survey agency, the current rate of approval for the government stands at 56%. This is to be contrasted to the 81% rate of approval in the month of August 2001. While the level of support for the government of the charismatic figure of the former King might be expected to stabilize for the short – term, it is crucial for institutions and political parties to begin to function effectively in order to restore at least a semblance of rational, legalistic legitimacy.

Another element of this crisis is to be found in the emergence of political apathy. Notable electoral apathy has already been evident in the Presidential election in November 2001 (42% turnout in first round and 55% turnout in second round). In December 2001, the new mayor of the city of Sliven was elected with 13% of the vote. As has already been mentioned, there is an increase in the reluctance of citizens to engage in civic and political action. What is emerging is the perception that only through direct engagement can one reasonably expect to obtain desired outcomes. The salience of such a disposition can have important political implications. One might involve further erosion of the legitimacy of intermediary institutions such as political parties. A further consequence might involve the increase in degree of citizen readiness for direct action and immediate expression of discontent. Short – term, it has implications for parties in transition or initial structuring. This would entail the adoption of strategies of dialogue and interaction with citizens and groups at the local level and on specific issues. Still, the readiness to participate in elections remains relatively high. According to the 2001 UNDP Report, 62.7% of respondents confirm their firm intention to vote in a next round of elections. Only 10.6% definitely intend to stay away from the polls while 21.9% are undecided and are still to make their choice.

As implied, viable political parties are a crucial element of stable

democracy. The party landscape is presently in need of urgent reconstruction. The parties have been very ineffective in aggregating interests and ensuring compatibility of the reform agenda with the emerging stratification of society. They have also been largely unsuccessful in recruiting able individuals to senior party and policy positions, thereby creating an image of politics as a field for failed or prematurely retired professionals from other walks of life. The Union of Democratic Forces (which governed the country between 1997 and 2001) has managed to survive the electoral onslaught incurred to governing right – wing parties of reform in countries such as Poland and Romania. At the June 2001 election, it still managed to capture 18 % of the votes. The patterns of group configuration within the party are presently being played out once the “glue of government” is no longer there. This has meant the establishment of a new splinter party – the Union of Free Democrats. There is a clear need for change of leadership, recruitment of local informal and formal leaders, widening of its appeal to individuals who have not been among the “winners” of the transition and translating the language of EU and NATO integration into a tangible, perceivable reality.

The left Bulgarian Socialist Party also continues to face a number of challenges, including the need to renew its leadership structures with individuals possessing solid social – democratic credentials, the need to reach beyond its narrow electoral base of retirees and unemployed and to ensure compatibility between the reform agenda and the immediate aspirations for significant re-distribution among many of its voters. At the June 2001 election, it gained 17% of the vote.

The governing movement of Simeon II has declared its firm intention to register as a political party. The movement faces a number of difficulties: establishment of clear, recognizable set of ideas, creation of structure which ensures sufficient cohesion beyond the personal charisma of the leader, containment of emerging competing camps, establishment of mechanisms to ensure separation of party structures from those of government, etc. The challenges, facing parties as institutions of democracy have already been highlighted. There will be little long – term stability of the democratic system without a successful attempt to establish modes of dialogue and representation vis-à-vis a skeptical public with a deepening disposition to “go it alone”.

The Bulgarian party system has long been described as a two – party system with a significant ethnicity – based party, which may hold the balance of power in situations of electoral proximity between the two

major parties – the Union of Democratic Forces (UDF) and the Bulgarian Socialist Party (BSP). Quite clearly, the emergence of the national movement of Simeon II and its success at the last Parliamentary elections have led to a radical disruption of the party system. The previous two main parties have collectively gained less than 40% of the total vote. Nevertheless, it is still unclear whether the last elections represent an aberration or a sign of systemic change. It remains to be seen if the movement of the former King does have a future as a political party or whether difficult reform and governmental instability might not lead to a fragmentation and subsequent distribution along the axis of the UDF – BSP. The clear split of the vote at the last Presidential elections between the candidate of the BSP, Mr. Georgi Parvanov and the incumbent President, Mr. Petar Stoyanov, supported by the UDF, seems to point in this direction. Yet, the increasing number of voters who change allegiance and the reduction of size of the core of the vote for the two main parties do suggest an opening for new political parties.

A distinct feature of the present state of democracy is the increase in electoral volatility. It has already been mentioned that the previous main parties gained less than 40% of the vote at the June 2001 Parliamentary elections. The reduction of the core vote of the two main parties since 1989 has already been well documented. Clearly, there is a process of weakening party identification. There is further evidence of volatility. Respondents to the 2001 UNDP Report were asked if they had voted for the same political party at the last two Parliamentary elections. Only 35.4% of the voters responded in the affirmative while 32.7% stated that they had supported different parties at the last two elections. The increasing propensity of voters to change allegiance and the increasing number of individuals who decide how to vote during the pre – election campaign point to a steady increase in volatility. This will continue to make elections less predictable. A somewhat unrelated issue does provide some clues as to what type of political parties are likely to enjoy electoral prominence. Respondents to the 2001 UNDP Report were asked to decide on the proper mode of decision – making for the compilation of party election lists and 51.9 % of them regarded public meetings open to all citizens as the best mode of choosing party candidates. Only 8.3% of the interviewed thought that these decisions should best be left to the party leadership and a meager 1.7% thought that the party leader is best placed to make these decisions. Such attitudes do suggest that the capacity of

parties to manage to conduct effective dialogue with citizens and social groups and propose detailed policies will receive electoral backing. Party identification and ideology seem to matter less to an increasing number of voters.

The appearance and present prominence of the movement of the former king Simeon II brings into focus yet another important issue – the continuation and replacement of political elites. Public opinion is often at odds with itself on this question. On the one hand, voters quickly grow tired of the political elite as reforms begin to take their toll and a demand for partial replacement of the political elite gain in prominence. On the other hand, voters do want to see the emergence of a competent, professional and stable political elite, which is capable of good government. The perceived exhaustion of the political programmes of the UDF and the BSP and the appearance of the movement of the former King has also meant the partial replacement of the political elite of the country. A number of young professionals have been appointed to positions of high rank in the present government while an entirely new group of individuals from various walks of life have entered Parliament. It is too early to assess whether these are new, long - standing members of the political elites or individuals solely in pursuit of private aims by political means. The BSP has just appointed a 35 – year old, reform – minded person to lead the party and the UDF will be electing a new leader in early 2002 with the intention to bring forth younger, less well – known individuals of the post – 1989 generation. It is quite clear that the ability of parties to continually bring forth capable, fresh recruits to the political elite will enhance the stability of the political system and will help ensure a proper balance between stability of elite, capacities of good government and responsiveness to social expectation.

CAVEATS

Caveats are needed. The described series of crisis are of an entity in democratic consolidation rather than democratization. These are crises produced by the consequences of democratic and market reform rather than by the dynamics of democratization. They are a product of implementation rather than suspension of reform. Some of the causes are inherent, while others reflect the pace and mode of management of reform.

A central implication of the analysis is that the present difficulties could usefully be considered within the conceptual framework of theory of development rather than theory of democratization. This will take into consideration that democracy is being consolidated and that the success of this enterprise will be further ensured by a series of measures, which produce growth and development. In other words, the above – described crises do not constitute a systemic threat to democracy. They do, however, represent a threat to the capacity to continue consolidation and reform at a sufficient pace which, coupled with a developmental approach, will ensure long – term stability of democracy. In addition, this observation takes into consideration the fact that the most difficult decisions of reform have already been taken and that the post – transition contours of democracy and economy are firmly in place. Public support for EU and NATO membership remains to be solid and successive governments have implemented policies of responsible and constructive international and regional engagement.

The regional context also needs to be highlighted. Bulgaria has withstood pressures emanating from the regional areas of instability and conflict. Spill – over effects such as international organized crime have been contained and do not constitute a significant source of instability. Nevertheless, continued strife and volatility hinder the emergence of a regional context where democracy and development will constitute the main grid of interaction. In this sense, persisting conflict and weak statehood do have a negative impact on the efforts of Bulgaria to attain integration in Euro – Atlantic institutions and sufficient level of development.

Events and developments over the last few years have led to the emergence of a specific mindset. Prolonged reform and the concentration of the most radical elements of reform within the short timeframe of the last four years have contributed to a heightened sense of personal insecurity and volatility. This has produced, on the one hand, a deeply skeptical public distrustful of intermediaries and, on the other, a disposition of continued expectation of growth and advance through abrupt, major shifts in economy and society. If persistent, such dispositions could have an extremely negative impact on democracy beyond the odd instance of support for personal charisma. The potential impact of these dispositions on electoral support distribution, readiness to engage in direct protest, readiness to challenge the reform agenda, etc. has already been highlighted and needs to be observed closely.

Due attention should be given to another phenomenon. There is, at

present, a firm perception that transition ends with integration in the Euro – Atlantic institutions. Whether this is an adequate analytical evaluation cannot be examined presently and will be of little relevance to public perceptions. What has emerged is the conviction that membership seals the processes of transition to democracy and market economy and constitutes the final act of legitimation to the transition project. This perception has provided an important pool of patience as the reform agenda was being implemented. From this point of view, a double disappointment vis-à-vis Bulgaria's bids for EU and NATO membership in 2002 could have a serious destabilizing effect. There is sufficient public awareness of the fact that there is no complete overlap between the agendas of reform and Euro – Atlantic integration. Thus, a disappointment in 2002 might have as a consequence the increased insistence on the divergence between the agenda of reform and these of Euro – Atlantic integration.

ROADMAP FOR REFORM

The above-made analysis and caveats form the background of a possible roadmap for reform. The suggestions for reform may be divided in various segments:

1. Reforms in politics and government

- Re-legitimation of democratic institutions and political parties. This task might be accomplished by enhancing the capacity of parties to aggregate social and economic interests and ensure sufficient and effective representation. One avenue to be explored is that of improved dialogue on policy with branch and interest organizations as well as civic organizations. A further important task could be the enhancement of parties and their leadership to present policy measures in terms, which relate and link policies to social groups and citizens. The opening of parties to civil society and local communities is yet another area of reform. Recruitment to political and administrative office of capable members of local communities is of particular importance.
- A political debate on the effective scope of state and governmental intervention. While the extent of state intervention is a vital distinguishing characteristic of politics, it is necessary to define the minimum of public services, which can be supplied effectively and

usefully. Special care will then need to be taken to ensure that such services are provided in a manner, which strengthens the perception of government as an effective tool.

- An open process of policy formulation and implementation. This entails improving the capacity of Parliament and Executive (ministries and other state agencies) to conduct dialogue with interested parties in the process of policy formulation and implementation. It will ensure better representation of interests and provide important feedback on the effectiveness of legal norms and the need to modify them.
- Increased intensity of efforts to ensure integration in Euro – Atlantic structures. This will allow the benefit of membership to begin to take its course and will, at the same time, provide more space for government in policy formulation and structuring of agenda.
- A system of governance, which is closer to the citizens of the country. This will entail a measured reform of local government providing tax collection and management powers to this layer of government, thereby ensuring a greater degree of decentralization. A further option is the introduction of an Ombudsman at the various level of government ensuring direct points of entry for citizens.
- Improvement in functioning of administrative structures. Further efforts to improve administrative capacity and effectiveness in the provision of public services through introduction of managerial techniques and qualitative and quantitative measurements of efficiency. A further option is the introduction of greater transparency in all state agencies relating to monetary collections and the reduction of administrative hindrances to market entry and economic activity.
- A strategy for further training of local political and administrative elites, thereby ensuring successful decentralization. This will involve the elaboration of multi – faceted programmes for management training, political and administrative skill, public dialogue, representation of interest, etc.
- Continued attention to improvement of the actual exercise of civil and political rights and implementation of policies, which facilitate the exercise of the rights protected by the Constitution. Effective access to justice needs particular attention.
- Completion of the reform of the judiciary. This will have a positive impact on economic activity and ensure access to justice for

citizens. Particular emphasis will have to be placed on the streamlining of court administration, greater efficiency, better knowledge of EU and international law, training of judges, etc.

- Implementation of a comprehensive strategy to tackle corruption, which could be linked to the reform of the judicial system. This will entail effective enforcement of legal provisions, successful prosecution of corruption – related criminal acts, adequate administrative structures, decreasing tolerance to corrupt practices, sustained engagement by the media, etc.
- Continued extension of practices of political dialogue and linkages between the largest political parties and the Movement of Rights and Liberties whose main constituents are of Turkish ethnic origin. Continued dialogue with political and non – political organizations of the Roma minority.
- Drafting and implementation of pro-active media strategies by state agencies ensuring improved policy understanding. This will entail greater attention to explanation and justification of policy decisions through the media and professional and interest organizations.
- Sustained assistance to local cultural centers. This could be done through targeted tax exemptions, a system of moderate direct subsidies, information campaigns, etc.

II. Reforms in economy and society

- Introduction of a moderate policy of demand stimulation while ensuring the preservation of the currency board until Bulgaria joins the EU. These might entail targeted tax preferences, public works, training of unemployed, state guarantees for loans, infrastructure investment, etc.
- Implementation of a policy of export support for Bulgarian companies and a policy of support for certain growth industries in the country. Support could be extended to industries, which show growth potential, employ large groups of individuals and represent significant contributors to the state budget.
- Implementation of a tax and incomes policy, which allows individuals to maintain high levels of disposable income in a context of notable mistrust in the capacity of institutions to deliver public goods.

This is to be accompanied by stability of legal and institutional framework in the functioning of the reformed systems of social security, health care and pension.

- Concerted attempts at foreign debt re – scheduling, which would notably decrease budgetary pressures and provide funds for demand stimulation. These efforts are to be coupled by prudence in the use of bond issuance as a means of capital accumulation.
- Completion of the process of privatization through a series of transparent deals bringing to an end this element of reform. The completion of privatization will lead to a reduction of the potential sources of corruption. This is to be coupled with further reform in public procurement legislation and its implementation.
- Further improvements in investment policy, including tax preference, improved and simplified administrative infrastructure, efficient judicial system, etc. Such measures might additionally be targeted at growth sectors of the economy, which have the potential to generate long – term, high – income employment. An additional element would involve a region – by – region approach, thus tackling the enormous disproportions of employment within the country.
- Implementation of sustained regional policy, which takes into consideration the vast regional disparities in economic opportunity and development. In addition to tax preference, this could entail state support for information campaigns in foreign countries representing the investment opportunities in particular regions.
- Encouragement of dialogue with trade unions and branch organizations and groups of interest ensuring better representation and trust in the political system. This will entail consultation in the process of drafting and implementation of legislation, impact analysis of legislative and policy measures and post – policy adoption dialogue, thereby ensuring a more inclusive mode of governance.
- Encouragement of further investment in the media by well - established international media companies, thereby improving the level of political and policy debate. This will contribute to further diversity of informed opinion and greater presence of non – sensationalist programming and publications. Increased attention to the work of the local media represents an important new element. Greater dialogue between central and local government and the local media also deserves due attention.

- Continuation and expansion of all programmes of minority integration, short of positive discrimination, including additional appointments in local administration and law enforcement structures. This could involve the extension of “community policing” to all regions of the country.
- Training programmes and “Stay in school” programmes for ethnic minorities coupled with possible public works projects for targeted regions and cities. These programmes could be conducted in consultation with local businesses and in accordance with local labour markets.

KOSOVA: COUNTRY REPORT ON THE STATE FOR DEMOCRACY AND A ROADMAP FOR REFORM

Ylber HYSA

Kosova Action for Civic Initiatives, Prishtina

Kosova: Challenges of the Institutional-Building after the Elections

Introduction

Kosova has undergone significant changes after the establishment of the UN protectorate and arrival of KFOR forces in the ground. The first period of the establishment of the mission was more based on the improvised agenda rather than in the harmonized strategy. But this period is over-came during the first phase of the first SRSG B.Kuchner, who understood the need of the better cooperation with domestic political factors, and due to this fact the joint interim institutions were formed: JIAC and KTC, that have played a role in better understanding, in mutual work and preparation for the future institutional-building process that have resulted with two first free and pluralistic elections ever held in the history of Kosova.

- In this sense, Local elections for 30 Municipal Assemblies in Kosova held on October 28th 2000 has marked a significant change in the second phase of the UNMIK trusteeship. This election, despite many objections from some contries*, has been considered as the best on in the region. LDK has won with 58%, and two other former KLA emerged parties: PDK (27%) and AAK (8%) followed.
- But, despite god performance of political culture of Kosovar voters, the Implementation of the electoral results was not easy process.¹¹³

* Official Moscow has reacted strongly against this elections

¹¹³ See: *Municipal Assemblies, Local Government in Kosova: Challenges of Institutional Building, An Evaluation of the Work of Municipal Assemblies in Kosova after October 2001*, KACI, 2001, Prishtina

Lack of experience, some times tense relation between the position and opposition in Municipal Assemblies and the relationship between the elected domestic officials and appointed international administrators in combination with limited competencies, have produced not a very positive and immediate results in some municipality structures. Despite this, in general, establishment of the local governance is step ahead in the institutional-building process in post-war Kosova.

- Election for Kosovar parliament held recently (November 17th) has also shown very successful process with the quit and democratic atmosphere during the election campaign, as well as the E-Day. These elections were also successful because they were transparent (more than 13.000 international and domestic observers) and inclusive (Serbs and other minorities has participated in elections).

New phase in the institutional-building process:

As a result of the complex electoral system with seat a side seats, electoral results has shown that none of the parties could have mandate to form a government in its own. As a new element in the kosovar political scene coalitions seem to be necessity and this is new and important challenging factor for the Kosovar political scene. Although the process of negotiations is not yet producing final results, the Inaugural session of the Assembly of the Provisional Institution of Self Government of Kosova is called for December 10th.

Is very important element that came out of the electoral system and results Serbs has won 22 seats (10 seat a side plus 12 in direct polling) and this has brought new element into the new political scene of Kosova. Serbian coalition "Povratka" (Comeback) this way is the third political group in the new Kosovar Parliament and this is going to bring new political dynamism in the institutional-building process of Kosova.

Other minorities have also benefited from the seat a side seat and they are very well represented.

Security and other risk reporting aspects

After the war Kosova has faced difficult situation. Entering a chaotic environment that bore the marks of a terrible war- 850.000 returning refugees (no deported people in modern history has ever returned to a post-war country more quickly than they did), with as many as 120,000 houses destroyed and 500,000 persons displaced – the UNMIK mission

faced enormous challenges. In addition, economic hurdles resulting from Belgrade's colonial policies and its policy of apartheid in Kosova, where for ten years Albanians had been fired from their jobs in factories, police and the administration, further complicated UNMIK's task.

In this aspect immediate concerns were:

- *Lack of institutions to dill with general crimes (more than six months took international police to complete its capacity building to start mission in Kosova).*
- *Organized crime and the lack of domestic capacities to dill with it (have also produced another aspect of security concerns).*
- *Lack of harmonized strategy to dill with inter-ethnically based crimes.*

Establishing a Secure Environment

The Kosova operation is a complex mission that has its civil and military sides. In these circumstances, if one side fails, regardless of the latter's success, the mission will still have to be considered as a failure. In Kosovo's case, in a post-war, post-communist and post-apartheid society, the objective of providing law and order was severely tested. There were virtually no policemen out in the streets for the first five months after the war. To the local people this was seen as a problem at the same level as the lack of electricity and to some extent water. The lesson to be learnt from Kosovo's example in view of international missions is the need to better integrate the military, civilian and police services. In particular, the police function may prove to be the most difficult; after all, NATO does not have a police counterpart.

International policing capacities is based on the capacities of different countries. National police are not organized in the same way as militaries and may not be in a position to undertake a task within an international mission. National police forces may not have the necessary training for or understanding about the situation they are entering. Further, national police methods may not be appropriate when transported to a foreign environment, in particular relating to the use of firearms and other coercive arms. A police force consisting of

policemen with different experiences and practices that are not standardized is not always very helpful for missions like the international police mission in Kosova. The policemen in this mission come from more than 50 different countries - starting from the American police, to the Europeans, police from former communist countries in transition, police from the Far East and policemen from post-colonial countries in Africa. These policemen differ from each other, starting from their perception of the role to be played by the police in a democratic society to their understanding of when and how weapons are used.

The slow progress in building a local police force and the fact that international police are not fully-operational led to many criminal cases remaining unsolved. This low "clearance rate" of criminal cases at the beginning of the mission can cause the population to lose confidence in the international effort as a whole. An additional obstacle in this respect is the lack of knowledge when it comes to the local language and mentality, which impeded efficient and normal operations of the international police. The Kosova experience suggests that the police role is just as important as the military one in post-conflict situations. Soldiers are not trained to carry out policing tasks, a fact they made clear during their mission in Kosova. Militaries do not feel comfortable with duties beyond their established mandates.

*But, after two years and half Kosova Police Service seem to be more in place and this development of domestic capacities has produced a new policy acting as civil servants type, closer to the western standards of the police functioning.*¹¹⁴

Of course much need to be done in the general improvement of the security in Kosova, but situation has been largely improved compared with the first year of the post-war Kosova.

Security for minorities

The real challenges are still remaining for the security for minorities. While the general situation for the security and integration for all minorities is improving, for Serbian community it is still very difficult. Lot of combined security measures with concrete strategy to improve this situation is also needed. This includes over all improvement of

¹¹⁴ Public surveys have shown great deal of confidence among local population for KPS. This institution is regarded as most trustful in KACI's survey finished on November 12th. To be published soon.

political situation and functioning institutions, as well as more harmonized work towards the reconciliation process.

This involves:

- *Addressing the War crimes problematic (better cooperation with ICTY and improvement of the domestic courts. No serious address for the war crimes in post-war Kosova has negatively affected the inter-ethnic relations).*
- *Institutional-building capacities (harmonized work of judicial system, police and other security aspects, improvement of law enforcement capacities, etc).*
- *Improvement of the political situation (functional work of new Kosovar institutions: legislative and executive. It is very important that new Parliament and government of Kosova include as much as it possible Serbs in the institutional work).*
- *Reconciliation (Democratization process and more vibrant civil society involving multi-ethnic and multi-cultural programs and exchanges, as a first phase. In long-term more harmonized strategies should be involved also through different educational process.)*

Kosova after November 17th: Challenges of Institutional-building:

Elections results has brought very interesting post-electoral situation, in which parties will need to produce coalitions. LDK, that has won less than 51 percent, but still has the biggest parliamentarian group of 47 seats, theoretically could enter in two party coalitions (with PDK or with Coalition "Povratak") or three party coalitions (Pan Albanian coalition LDK- PDK- AAK). Other possibility is to have grand coalition that will be multi-ethnic as well (Three main Albanian parties and "Povratak").

But solutions will have pro-s and con-s. Coalition between Albanian parties (two party coalitions) might produce better chances for better executive and institutional-building, but still it will have negative approach in which Albanians might be perceived as being in position

and Serbs in the opposition. Any kind of disagreement in long-term might effect democratization and even suggest negative models of partition Kosova.

In this sense *it is interesting that in fact, based on the Interim Constitutional Framework for Provisional Self-governing it is foreseen one ministerial seat for Serbian representative and another one for he representative of another minority. This is de facto power sharing reserved for minorities.* So, in one or another solution Serbs will be part of the governing structures. This means that power sharing in the new governmental structures of Kosova will be multi-ethnic one. Formalization of this power sharing in producing de facto coalition could have very good effects for the future.

Judging from the lack of the concrete results from the negotiation process between parties, it seems that no agreement will be reached about coalitions prior to the inaugural session of the new Parliament of Kosova (December 10th). This might produce political tensions and period of the party rivalries among the parliamentary groups that might effect the appointment of the main functions: President, Speaker of Parliament, Prim-minister and Government.

This can mark a period of political tensions and lack of he functioning of new institutions in the important initial phase (in combination with Christmas and New Year holidays this can take months).

Out of Kosova factors and its reflections in the security and institutional-building process after Elections

In this aspect it is very important that initial phase of the work of Parliament and later of the government should produce concrete effects that provide parliamentary groups with the possibility of contribution in the new self-governing institutions.

In this aspect *some obstructions from some Serbian MPs might also be expected.* Coalition 'Povratok' seem not to be very cohesive as it looks like and its different positions are reflecting the rivalries in Belgrade and DOS coalition, between Mr. Kostunica and Djindjic. List of MPs of coalition Povratok is changed three times and in last intervention that is attributed to Mr.Kostunica, seven MPs in the top are from northern Kosova, where Serbs are living in strong divided enclaves directly linked with Serbia. In this sense, a number of MPs in the Kosova Parliament will more reprsenr Belgrade, or better to say

Kostunica's DSS line, rather than an original and authentic Kosovar Serb policy and agenda orientation. *This can produce tensions in the parliament and also in public opinion, especially because some exponents of the Northern Kosovo Serbian enclaves has openly advocating for partition of Kosova, that can be perceived as the most dangerous scenario affecting direct instability in the region, that with domino effect could reach other problematic parts of the Balkans (Mostar, Macedonia, Presheva Valley etc.).*

In fact, part of the MPs from the coalition "Povratak" are directly linked with Kostunica's DSS and this can reflect rivalries coming out of different situations also from the Belgrade-Podgorica's relationship (Referendum in Montenegro), but also possible rivalries in the DOS (split of the DOS coalition, early elections in Serbia, or political combinations over the empty chair of the President of Serbia after Milutinovic, etc)

This way different political rivalries from Serbia, or Serbia-Montenegro relationship might involve indirectly also the normal work of Kosovar institutions in the obstructing agendas of the group of MPs in "Povratak"

In this aspect *one of the out of Kosova negative factors can be seen also Macedonian situation.* After the conflict there and vacuum that is taking place from the acceptance of the Ohrid agreement to the next parliamentary elections in spring, might also produce implications for Kosova's institutional-building process. In the same manner, *problems with Presheva Valley can easily obstruct or shift the democratization agenda of new Kosovar institutions to be more nationalistically motivated agenda.*

Macedonia: Negative developments could shift Kosova's democratization agenda to nationalism

After the approval of the Ohrid Agreement by Macedonian Parliament, a risky period for the renewal of the fights seems to be more limited. But, lot of other challenges remains down the road, until normalization and normal re-functioning of the institutions will work out.

In this aspect several serious obstacles are foreseen:

- Political and security vacuum from the changes in Macedonian Constitution until the new parliamentary elections.

- Activities of ANA (Albanian National Army) and Macedonian paramilitary units ("Lions", etc.).
- Question of not completed amnesty and social rehabilitation of the for former NLA.
- Lack of free movement for all citizens and ethnic groups and complete control over the Macedonian territory.
- Establishment of the new police and security forces based on the Constitutional changes.
- Establishment of the new local government structures based on the changes in Constitution.
- Possible delay of the new elections after spring 2002 might bring new challenges for the political process, internal security, reforms and implementation of the constitutional changes.

For main Kosovar political forces and generally for public opinion as well as main printed and electronic media Macedonian crisis is finished with the changes of Macedonian constitution. There are no major political forces or public reactions towards the agreement of Ohrid and the final political settlement and changes in the Macedonian constitution, as well as to the demilitarization of the NLA.

In this aspect, *Albanian radical forces seems to be absorbed with the political settlement in Macedonia and elsewhere in the neighborhood of Kosova*. In this sense, there are no major movements expected out of this frame. Albanian nationalistic forces will react just if another provocations and armed conflict will restart in Macedonia and elsewhere, which might seriously threaten the democratization of Kosova but, also the security and stability in the region.

For Kosovar internal developments, it is of great interest that Macedonian crisis goes towards the path of normalization and stabilization. Any further armed provocation in Macedonia will shift political energy from the democratization agenda to a more nationalistic one. This is why the vacuum of inter-regnum in the Macedonia (from constitutional changes to the new elections in spring) should go smoothly and without major provocations.

Different scenario, that of *the renewal of the armed conflict, might easily trigger serious reactions and challenge new instability in the region with perspective of the major bloody disintegration of the existing*

states and creation of the greater mono-ethnic states, followed by new bloody conflicts, change of the borders, new refugees fleeing around. This possible *fait a comply* situations are the most dangerous nightmare scenarios for entire region. That's why stabilization and implementation of the reforms after the changes of Macedonia constitution are of the great importance not just for Kosova, but also for the stability in the region.

Albania: No major involvement in Kosova's political, economical and social life

Albania has undergone serious reforms last years, especially after the problems of the '97 crisis. During the Kosova war majority of the kosovar refugees (more than 4.000.000 of them) were based in Albania, one of the poorest countries in Europe. This has helped a lot in overcoming the lack of normal communication that has existed between Albania and Kosova for many decades. This period has marked wit the great cooperation of the Albania and Euro-Atlantic structures.

Immediately after the war, during he establishment of the UN mission in Kosova and deployment of the KFOR troops Albania has played cooperative role with international community. Albanian office is opened in Prishtina and the other political presence and economic activities have been present in last two years after the conflict. In these aspects, especially after the Macedonian crisis erupted, trade with Albania has been growing, although in very limited capacities due to the serious problems with infrastructures linking Kosova and Albania.

From kosovar perspective, Albania is facing different problems:

- Political instability after the elections (Serious political rivalries in ruling party, between the President of the Socialist Party of Albania Mr. Fatos Nano and Albanian prime-minister Mr.Ilir Meta)
- Week state mechanisms to dill with organized crime and corruption
- Problematic segment of the Albanian state institutions remains justice and law enforcement agencies
- Problems in the border control and specially in the Northern part of Albania, in the Tropoja region bordering Kosova
- Economic problems: Inadequate infrastructures, consistent

gray – economy, weakly functioning market mechanisms and instruments.

Albania, although from the perspective of foreigners very close to the Kosovars (same ethnicity, language, culture) still is not very present in the post-war Kosova's political, social and economic life.

Kosova is suffering from the lack of infrastructure with Albania, one of the most serious economic problems of Kosova. Better infrastructure probably will help a lot kosovar economy to be linked with Durrresi harbor at the Adriatic costs.

One of the problems is also an organized crime, especially in the border region, in the North Albania and its eventual penetration in Kosova.

In fact, existing political problems in Albania could not have direct reflections in the Kosovar political life.

In any case, stabile Albania will just help to the overall stability, not just in Kosova but, also to the Balkan region.

General Comment

Kosova is undergoing most significant and challenging path after the establishment of the international administration. Elections of November 17th have shown great success of kosovars to take part in the political life with political means and civil participation. But implementation of the electoral results might be more challenging than elections itself.

Support of the main international agencies and factors, like Euro-Atlantic structures and Quint countries are also very important for the future development of the democratic institutions of the self-government.

This is marking so-called mid-term phase of the international protectorate in Kosova, reflected in the institutional-building process. The first phase of the UNMIK protectorate was establishment of the mission and organization elections for new democratic kosovar institutions. Last phase is that of definition the final status. The mid-term phase, that of the organization and functioning democratic institutions is most important challenging period that can both lead towards successful self-governing and power sharing process with UN trusteeship, or further complicate the already achieved successes.

This is why enormous energy and attention should be paid to this process.

Out of Kosova factors and its reflections in the security and institutional-building process after Elections.

This way different political rivalries from Serbia (Kostunica-Djindjic and other DOS rivalries), or Serbia-Montenegro relationship might involve indirectly also the normal work of Kosovar institutions in the obstructing agendas of the group o MPs in "Povratak".

Problems with Presheva Valley can also obstruct the democratization agenda for Kosova.

The serious problem also remained with the divided city of Mitrovica, in Kosova, that needs to be resolved in the long-term perspective.

For Kosovar internal developments, it is of great interest that Macedonian crisis goes towards the path of normalization and stabilization. Any further armed provocation in Macedonia will shift political energy from the democratization agenda to a more nationalistic one. This is why the vacuum of inter-regnum in the Macedonia (from constitutional changes to the new elections in spring) should go smoothly and without major provocations.

In fact, existing political problems in Albania could not have direct reflections in the Kosovar political life. In any case, stabile Albania will just help to the overall stability, not just in Kosova but, also to the Balkan region.

Needless to say, the establishment of the functioning self-governing institutions in Kosova is in the interest not just of Kosovars but it is also interest for the more stabile region in the Southeastern Europe.

MACEDONIA: COUNTRY REPORT ON THE STATE FOR DEMOCRACY AND A ROADMAP FOR REFORM

Forum - Center for Strategic Research and Documentation

1. Introductory notes

When we take the Republic of Macedonia into consideration every analysis/synthesis is faced with a number of unavoidable difficulties from the very beginning. Having no ambition to be absolved some of these difficulties should be listed and others will have to be elaborated.

The Republic of Macedonia according to its territory, population, natural and other resources is a relatively small country. In no research it could be used as a landmark but also one cannot find too many similar countries that could be used for a possible comparison. Macedonia is a country with a complicated ethnic composition, which is a sufficient topic in itself for analysis. It is also an especially difficult situation in creating state institutions in regard to the speed and the price of its prosperity. In many of the elements of its existence, survival and progress as a state the newly created Macedonian state has been directed towards the states that emerged after the disintegration of former Yugoslavia.

Macedonia is a state with only ground borders. Its neighbours are mainly countries with their own deep interior and exterior problems and contradictions. And most usually one of the problems of the Macedonian neighbours is the Republic of Macedonia itself.

1.1. Regional context

One of the central topics in the analysis of the Republic of Macedonia is its regional context. Without that analysis any attempt to understand the situation in Macedonia would be incomplete, superficial and would lead towards wrong conclusions. This methodological imperative should always be taken into consideration when attempting to analyse the Macedonian situation.

According to Hegel the small states draw their own interior and exterior stability from their neighbours. In the case of Macedonia it has shown to be completely true. The Macedonian state is in the centre of two

very important Balkan, but also Euro-Asian historic, geographic, political and strategic transversals. Those are the North-South and East-West directions. The significance of these directions was defined in the Roman period (Via Militaria and Via Ignatia). The history has confirmed that that significance exists to this very day and it is very possible that it would be the case in the near future as well. That role of Macedonia has been codified and articulated most precisely in the documents at the Berlin Congress in 1878. At that Congress the new European forces at the Balkans (Germany, England, France, Austro-Hungary, Russia) for the first time in history tried to clearly identify their interests at the Balkan Peninsula, by dividing their positions. The European forces opposed to Russia established a relation that included certain concessions towards Russia at the expense of the Ottoman Empire which was characterised as “very ill”. The Berlin Congress revised the consequences from the Russian-Turkish war and the San Stefan Peace Agreement that resulted from it on 3 March 1878.

Among the other topics at the congress there was interest also for Macedonia and the aspirations of Bulgaria, Greece and Serbia towards it. But the neighbours of Macedonia were not alone in their aspirations. After the military defeat of Turkey the Russian Empire created an autonomous state of Bulgaria, which included the territories of the Vranje area in Serbia, Korca in Albania and the entire territory of Macedonia. The great European forces opposed this: Austro-Hungary looked upon that as an obstacle for its Balkan aspirations towards Thessalonica, Germany was not satisfied because of similar reasons and Great Britain took this Russian penetration in the Balkans as a threat towards its domination at the Mediterranean. For these reasons the Berlin Congress was organised, primarily as an attempt to reduce the Russian influence at the Balkans and also to prevent a total collapse of the Ottoman Empire having in mind that it would create a great imbalance of forces at the Mediterranean. That imbalance symbolised through the exit of Russia – through the Balkans and Thracia, as well as through the Bosphorus onto the Mediterranean it would have been impossible for the European forces at the time to control.

At the meeting the stratification of the forces has begun and probably that is the first serious step (in both military and political sense) towards the formulation of the existence of a bipolar world which after an almost century now is gradually disappearing. Today's *meeting*, i.e. *clash* of civilisations, the mass in regard to the new situation in the world, the globalisation as well as the global poverty might be the end, i.e. the

consequences of the first division of power and influence in Berlin. It was achieved with two world wars and one cold war.

In this Berlin context Macedonia had its 100 years of labour troubles under the vigil eye and always open appetites of the Balkan states at the time which exist today in this or that shape (Albania, Bulgaria, Greece and Serbia and their constant or temporary allies). From the Macedonian point of view even today it is very easy to locate the Balkan positions and ambitions of these states. In that sense it seems that it is too early to state, at least in regard to the Balkans that the bipolar world is dead. As an illustration we could use several concrete examples...

1.1.1. Serbia / FR Yugoslavia

Until the 5 October 2000 Serbia was one of the few last states in the world which has existed and incited wars in the Balkans in the last ten years thanks to the logics of the bipolar world. Even though Russia has never openly taken its side it always, even in the most difficult moments of the controlled disintegration of the USSR during the Boris Yeltzin's time found ways for both direct and indirect encouragement of Slobodan Milosevic to obstruct the international mechanisms and often in regard to the Balkan issues it quantified its cooperation with the international community (NATO, EU, UN) with appropriate financial benefits.

It is a paradox but in those years the Serbian policy had never shown any ambitions towards Macedonia. It realistically believed that the long existence in a common Yugoslav state (70 years) is a sufficient investment for the future plans for Greater Serbia. Apart from that Serbia left in Macedonia sufficiently big and qualified network of supporters and collaborators. That human infrastructure in a situation such as this (the end of the 2001) represents a significant advantage compared to the other protagonists in the Balkan political, military and other games.

Even though today in Serbia the division and the difference in the concepts for the future of that state are clearly obvious, it is also easy to notice that different structures, groups and institutions are not at all indifferent in regard to the Republic of Macedonia. One should know that parts of the Serbian administration (military and police) or at least some of its services function totally independently from the civil political control. Their operating in regard to Macedonia is different from what could be heard on a rhetoric level by the Serbian officials.

1.1.2. *Bulgaria*

Undoubtedly in today's Bulgaria in regard to its place in the contemporary world dominate the structures that see Bulgaria in the NATO and EU structures. Seen from the Macedonian point of view Bulgaria is a state that gives an impression of a very mobilised and evidently successful state in regard to its Euro-Atlantic ambitions. But if in Serbia regarding Macedonia there is a case of "postponed division" (kind of a "schizophrenia", in the political sense of the word), in Bulgaria that division is very current. Over there, not only in the political parties but also in the administration, there are circles which have been tolerated in an interesting way by the government and who have been fostering regularly patron-tutorial activities in the past 100 years. From a Macedonian point of view it is astonishing that these structures (just like the Serbian) still foster dreams for a certain "Russian resultant" that would help in accomplishing their ambitions, i.e. for a different role of Russia in the Balkans.

The examples of these two states, neighbours to Macedonia illustrate not only the analysis of the Macedonian interior situation but in a certain way they show the entire complexity of the bipolar world and its "disintegration", they speak of the exterior shapes of this process especially in the context of redefining the national and geo-strategic interests dictated by the imperatives of the globalisation. This is especially important having in mind that the successes/failures of the political elites in Serbia and Bulgaria to take their citizens closer to the standards of the developed world in the passed decade ended with serious threats on the political concepts and their bearers who insisted on Euro-Atlantic integrations.

The different concepts (anti-NATO, anti-EU) in these states are capable of engaging potentials that surpass the borders of these countries. The ten years long international struggle with Milosevic's regime and the forces that stood behind him had much wider influence and consequences than the territorial perimeter of the Balkans itself. Within that context the negative political influence on Macedonia should not be underestimated.

However, in regard to the attitude of Bulgaria towards Macedonia there is one symptomatic constant that has been sustained in the passed decade, no matter which of the parties is in power in Sofia. Namely, Bulgaria as a state has been fostering very cooperative relations only with one party in Macedonia – VMRO-DPMNE. We have no intention to start analysing the reasons and the history of this phenomenon, but

it is worth noting that because of this relation the *interstate* relations between Skopje and Sofia depend on the party ruling in Macedonia that harms the long-term relations between the two nations.

1.1.3. *Greece*

From the aspect of the Macedonian context it is paradoxical that Greece is presented together with states that until recently belonged to the communist world and according to very understandable reasons that have a huge historic vacuum in building the system of democracy and its institutions according to the standards of the realistic western civilisation to which Greece belongs. This paradox is due to the fact that Greece at the beginning of the last decade of the 20th century took part in a hyperactive Balkan creation – the expression is ultimately ambivalent – of the “Macedonian situation” even though it is a member of the two most important alliances, NATO and the EU. Starting from partially understandable positions, Greece fiercely opposed the existence and the future of the Republic of Macedonia. This opposing in certain elements was completely irrational (like in the case with the name “Republic of Macedonia”) both as rhetoric but also as a practice. In the first moments of its independence the Republic of Macedonia was faced with a physical blockade (closed borders) by its southern neighbour. Then a fierce political obstruction on an international level followed. Greece defending its position managed to provide at times silent and at times explicit support by the EU member countries.

This Greek blockade incited enormous economic and political consequences in Macedonia. The Macedonian citizens as well as some parts of the international community for the first time were faced in a brutal way with the global ambitions of the small Balkan states, this time promoted by Greece. Consequently Macedonia was slowed down in building the state in a very delicate initial phase of the development of the economic and political pluralism, in the process of privatisation of the economy and changing the entire public system of values.

In a “sandwich” between the Greek economic blockade and the obligatory implementation of the UN embargo against Serbia/Yugoslavia Macedonia in the first half of the last decade was brought in a situation to take care of its sole survival. Its democratic political elites and transformed institutions were created and built in extremely difficult environment. Great energy was spent on the process of survival – starting from heating of the kindergartens and schools up to procurement of elementary repro-materials and fuels for the industrial production. Mechanisms were searched that would avoid the two

embargoes. In one portion those mechanisms meant breaking both the domestic and the international laws and rules of conduct. During those years the Macedonian society started gradually to become an ally and very often a hostage to obscure social structures (criminals and similar people who knew how to find their way around) in Macedonia but also in Serbia, Bulgaria, Greece, Albania, etc. Still opposite to Greek wishes the Macedonian state managed to survive. This Greek attitude – as the only country in the region which is a member of both NATO and the EU – by many in the Macedonian surrounding was interpreted as a signal to foster some fantasies about the future of Macedonia. That meant development of a specific regional “geo-policy” in regard to Macedonia. The consequences of this bad Greek “investment” in Macedonia were most obvious in the middle of last decade. The Macedonian citizens were completely confused who was playing that dangerous game with them where their national identity and physical integrity were being put on for gambling. They understood the EU mechanisms and standards the way Greece practiced them. The blue European flag with yellow stars was the first flag they would see after they left their own country towards south.

The Greek policy did not amnesty the failures and the non-democratic and criminal behaviour of the Macedonian political elites. However the analysis of the Greek behaviour is necessary in order to show some evolutions as well as permanent positions of certain structures both in Macedonia and in its neighbouring countries. Namely after 1995 certain movements and practice of different methods towards its northern neighbour happened in the Greek policy. After they had realised that with the open animosity against Macedonia they did not achieve their goals, in the next phase the Greek policy towards Macedonia was directed with intensive and huge participation in the Macedonian interior transitional processes. It meant participation in the process of privatisation of the Macedonian economy, creation of new economic and political relations, etc.

Nevertheless, Athens even in this phase of its policy towards Macedonia draw certain moves with negative repercussions not only towards Macedonia but the region in general.

With a capital which partial sources could be located in cheap funds formed by EU programmes for supporting Greece, the Greek businessmen assisted by the Greek state services managed to penetrate in Macedonia very high in the structures of the government. The Macedonian political elite was already corrupted and criminalized

enough though it was not too difficult for it especially in the cases of mega-privatisations (the Oil refinery OKTA, Macedonian Telekom, the second mobile operator, the biggest Macedonian bank-Stopanska banka, etc.) to provoke cases of obvious mega-corruptions. This trend contributed for the other cases of corruption to be treated se quite "normal": all the standards of conduct and the laws were relativised, and the political elites turned into an arrogant group in power, similar to the corrupted elite in South America. Greece became the Balkan crossroad of mega-smuggling of cigarettes, and Cyprus undoubtedly the European centre for money laundering.

Finally in the context of the events in 2001 in Macedonia Greece manifested, on the first sight, confusion with moves that go from one extreme to the next. In Greece there political and party regrouping, exchange of arguments and conflicts of concepts, primarily on the interior Greek situation. In such a context, on one side completely archaic moves are manifested towards abroad (which include suggestions for division of Macedonia, in all the variants, with associations from inside Macedonia, and at certain moments by some Bulgarian circles), and on the other hand politically quite rational and productive moves (which include the reaffirmation of the role of the Stability Pact, assistance in building and reaffirming the capacities and the institutions of the Macedonian state, etc.).

1.1.4. The Albanians in the Balkans

The ethnic Albanians especially from the aspect of an easily noticeable ambition-expansion towards the mainland do not represent anything new on the Balkan geo-political maps. The Prizren League that was held the same year as the Berlin Congress (1878) very clearly demonstrated these ambition of the Albanians even though in those years there was no state-legal subject in the shape of an Albanian state, but beginnings of the Albanian national awakening. Namely, in Prizren (today's Kosovo) the top people of the Albanian ethnos gathered over there: intellectuals, tradesmen, prominent heads of big families, etc. Over there they formulated, as an announcement towards the European forces, their ambition for presence in the Balkans as a state. Those borders are e typical product of the Balkan political mind: according to the Prizren League the future Albania should have covered starting from north towards south Montenegro (almost entire) down to Larissa (Greece), and in the west-east direction from the shores of the Adriatic Sea up to Vranje (Serbia), Kumanovo (Macedonia) and Thessalonica (Greece).

The Prizren League still exists as a political platform, which is very suitable for manipulation. This vague idea is used to create alleged consensuses in the texture of the Albanian ethnos on which basis anyone with bad intentions could incite crises in the Balkans. It is symptomatic that even though at that time the intellectual critical mass that created the political conscious among the Albanians was in the towns that are part of today's Albania, the Albanian political activists still directed their political action and expansion towards the territories of the neighbours (in today's sense of the word) in the region.

The statistics from that time about the situation of the population show that in the towns in Kosovo, and especially on the territory of today's Macedonia the Albanians had an insignificant presence. It is much more precise to talk about the Albanians on these territories as typical nomads mainly related to the movement of the cattle in the mountain areas. Still the Albanian political activists and their advisors were looking much further in regard to the process of disintegration of the Ottoman Empire. They were quite clear that Russia through its standardised relations with Serbia, Montenegro, Bulgaria, with the Serb element in Bosnia as well as the manipulations with the Macedonians was preparing a new approach on the Balkans and the Mediterranean. Even though these were top quality geo-political anticipations these ideas in time were weathered out in the undefined social texture of the Albanian ethnos, as well as in the unclear ambitions and unformed national conscious. The peak of the shortsightedness is the participation of the Albanian pro-fascist regime of King Zogu in Mussolini's operations, the formation of units with clearly fascist symbols, as well as their participation in all the military operations undertaken by Mussolini's Italy. The ideas of the Prizren League were the basis for that entire policy.

After the Second World War thanks to the short-sightedness of the policy of Tito's Yugoslavia (the Albanians were on the way of any kind of Serbian-Russian adventure towards the Mediterranean), even though with completely grotesque national state-legal creation behind them (Enver Hoxha's Albania), the Albanian ethnos was given a chance for expansion towards the mainland and establishment of an anachronous political mentality and methodology. This supported the attempt for continuation of the ambitions of the Prizren League.

It is interesting to know that even today some leaders of the Albanians in Macedonia and Kosovo speak openly that "we are living the last days of the disintegration of the Ottoman Empire". For them the processes

of the post-bipolar world and globalisation have not started yet.

In this sense today's Albania is most indicative. There just like in Serbia and Bulgaria there are still certain political structures that are active and who understand and implement the state-legal subjectivity in an archaic way. They act with no visible control of the authorities but it is completely clear that they are tolerated by it. Even though Albania as a state shows high level of cooperation with NATO, it is probable that certain extremist structures among the Albanians in the Balkans find their shelter and encouragement in Tirana.

1.1.5. The fall of Slobodan Milosevic's regime and its consequences

In order to understand the regional processes in the past 10-12 years it is necessary to analyse the appearance, growth and the fall of Slobodan Milosevic's regime. In this occasion because of methodological reasons Milosevic will be used as a notion-quintessential of an extremely complex historic, social and political process.

At the time of the appearance of Milosevic at the Yugoslav political scene in 1987 the processes of disintegration of the already degenerated social systems/states, including the USSR had already started. The very operation of devastation of the SFRY was carried out by Milosevic through at the time quite unclear hysterisation of the Serb national feelings. He used the Serb element in Croatia and Bosnia as a reason for totally irrational demands for redefining the Yugoslav federation. At the same time he carried out a brutal aggression over the Kosovo Albanians as constant guilty parties for the situation in Serbia. The reminiscence in the Serb public and media regarding the "Kosovo myth" about "the historic injustice over the Serbs", the endless repeating of the historic facts - in shape of nationalistic legends - of clero-fascist slay of the Serbs during the II World War in Croatia, the claims of the alleged Muslim domination in Bosnia and their cooperation with the catholic Croats, etc., they speak of a process of preparation of a sufficient crisis potential that the world would later have to deal with for whole 10 years engaging incredible capacities.

Milosevic managed to mobilise a very wide structure of orthodox Slavs with sufficient anti-Muslim and anti-catholic feelings in order all the peaceful solutions especially with political means to fail. Milosevic and his military-political strategists and encouragers very carefully and skilfully spilled the crisis from one to another region. The goal was for

the crisis to last as long as possible. It began in Slovenia (1991), then it moved to Croatia (1991) and the military turmoil followed in Bosnia (starting in 1992) (to mention the variations: Montenegrins and Herzegovians attacking part of Dalmatia, especially Dubrovnik area; Muslim-Croat war; Muslim-Muslim war in Bosnia, etc.).

After the Dayton Peace Accords were signed (1995) Milosevic kept the attention and the capacities of the world upon the situation in Yugoslavia (elections, forgeries, breaking of human rights in both Serbia and Kosovo, real robbing of the economy and the citizens, clash of the alleged autonomous ambitions of the elite around the President of Montenegro, Milo Djukanovic, etc.). At the beginning of 1998 an obscure extremist-liberation armed formation appeared in Kosovo, called the UCK. Its proclamation goal was not only liberation from the Milosevic's regime in Kosovo but also independence of this Serbian province. Some political analysts warn that the UCK was namely a new provocation created in Milosevic's "kitchens".

(Digression: It is very important to have in mind that the international community, i.e. the West was completely surprised and not prepared for the beginning of the process of disintegration of socialism. The most one could hear during those years from the West was self-satisfactory exaltation from the fiasco of socialism and the victory of the values of the western democracy. The "Partnership for Peace" project followed as the first concrete move with many years of delay, with numerous weaknesses, slowness and improvisations. It was a unique opportunity for gradual and organised involvement in the structures of the former socialist states.

At the same time the West had no answer for the "Milosevic" process. They allowed having a region with big and long-lasting crisis capacities in the heart of Europe. Yugoslavia was almost disintegrated and the West was still operating with diplomatic meaningless sentences: "We support the territorial wholeness of Yugoslavia", etc; The Yugoslav army was already the occupying force in Croatia, and the West was having doubts whether to recognise the sovereign Croat state; Sarajevo was faced with severe shellings and the West was stuck in the labyrinths of the UN procedures; the paramilitary Serbian structures in Bosnia carried out operations of ethnic cleansing on daily basis and the West almost assisted them with their abstention from acting (Srebrenica, Gorazde, etc.). Unclear international formations of volunteers were entering Bosnia to help the Muslim side and the West treated them as their allies. Later on before the eyes of the entire

world from the territory controlled by the international community the crisis from Kosovo metastasised into Macedonia and the West was paralysed by the EU and NATO decision mechanisms. It is a terrible slowness, bureaucratic inertia, self-satisfaction with no real reasons and incompetence in all areas.

This was necessary to mention in order to underline all the forms of delay as an indication of the essential contribution of the western mechanisms - or their absence - in creating a situation not only in the Balkans but also in the other regions. Now it is clear that in the future serious disturbances of the stability and the peace are possible not only outside the state borders of the western states but also within themselves as well.)

With feverish efforts and with the assistance by structures from Macedonia and Albania, NATO managed to be present in Kosovo within the UCK structures. As a result Milosevic's plan for his own infiltration into the UCK in order to provoke a greater Balkan crisis failed.

No matter the defeat in Kosovo Milosevic still had sufficient capacities to represent a threat for the region. As a result a new action was necessary, this time inside, from Serbia. The end of 1999 and the beginning of 2000 provided an extremely good position for that but at the same time with many hidden dangers in it. In Serbia and outside the shape of the grand coalition against Milosevic was already visible. Just as before in similar occasions that coalition was heterogeneous. Apart from the citizens of Serbia who definitely saw the weariness of all their moral and material resources, all the western countries participated in that coalition as well as certain structures such as the UCK and some groups of Macedonian Albanians for whom nobody could claim with certainty that they are on the right side of the law; also some groups of Albanians from Kosovo, allegedly outside the structures of UCK; the Muslims from Sandzak, etc.

During that time in Kosovo an entire year was spent without the former "liberators" to be redirected to work within civil frameworks. Very strange mechanisms were established for sustenance of the existence of the population. The international administration together with thousands of humanitarians and other international volunteers in order to transfer the situation from *pre-political* to *political* they were dealing with distribution and redistribution of the foreign donations with the participation in obscure activities of the former "liberators" with unclear and immature expectations that the situations would be settled on their own, i.e. with false hopes that the Kosovo politicians have enough

authority to act in direction of prosperity. It is very obvious that in Kosovo there is a strange “balance of the fear” between KFOR on one hand and the disunited Kosovo politicians and “commanders” on the other. Nobody is bold enough and with sufficient knowledge to overcome that completely unnatural situation.

The rest of it is well known: Milosevic primarily thanks to the citizens of Serbia and the skilfulness of some of the leaders of the Serbian opposition (that the West has invested in the past several years) was brought down from his ruling position. After the 5 October 2000 the reasons for the existence and tolerating of the numerous armed groups in Kosovo and Southern Serbia disappeared. The West was again faced with the bills of the “fighters” against Milosevic, and the payment of those bills has proven to be a very complicated task and with many consequences. If until then the bills were being paid by tolerating some illegal activities (smuggling of all different types of goods, including drugs and people) it was very clear that this was going to be a big bill - Kosovo, an independent one, something that nobody in Belgrade would ever discuss even if UCK ethnically cleans Kosovo completely. (Macedonia has been paying its bills regularly through fostering the so-called interethnic coalitions in the Government, brought down to coalitions between criminal oligarchies of Macedonian and Albanian ethnic origin.).

Macedonia and the new government in Serbia with a “blitz” move by the diplomacies of the two states in February 2001 (after a decade of previous futile negotiations with the Milosevic regime) defined their own borders, including the part along the Kosovo border. From the aspect of the short-term ambitions of the Kosovo “liberators” composed of networks of criminal groups in Kosovo, Macedonia, Albania and Western Europe, such an inter-state border demarcation did not suit them. Namely it was already possible to feel that the West, which assisted in achieving the border agreement, made regional moves that provoke the other side to act.

The action followed in January 2001. Encouraged by some “emigrant Albanian circles” in Switzerland, the USA, Germany, Belgium and other western countries who deal with different, mainly criminal activities a completely phantom organisation called the “National Liberation Army” (NLA) began military operations against the Republic of Macedonia. The West in the phase of “paying bills” tied with the fall of Milosevic, one cannot say that it was surprised by these activities by the NLA. However the Macedonian government was, even some structures of

the Albanian political parties in Macedonia.

Namely, even though some of the NLA connections were completely clear and even though part of the Macedonian intelligence structures were warning that with small “guerrilla” groups on small areas there will be a controlled spill over of the crisis and the crisis potential from Kosovo and Southern Serbia towards Macedonia, the surprise of the Macedonian authorities allowed the spill over of the militant groups. Many of the defence mechanisms of the Macedonian state failed (the reasons will be elaborated later on). The West showed again that it is very difficult for them in dealing with complicated Balkan situations that make it difficult to differ the real liberators from the “liberators”.

1.2. Summary of the introduction

Macedonia is presented within a regional context pointing out only some of the elements of the other participants in the entire regional situation. The elements that are related to the non-typicality of the case have been underlined, and Greece is introduced as an additional Balkan negative factor. When it is the case of Macedonia one should have in mind again that everything in this region happens according to the principle of connected vessels. The analysis/synthesis and concrete moves have to have a regional tuning.

2. Macedonia in the '90s of the 20th century

2.1. Terminology framework: Transition

Even though this includes several parallel social processes the notion of *transition* - nevertheless the exaggerations in its flexible use - it is the most appropriate for diagnostics of the situation in almost all post-socialist states.

The transition has the usual meaning: it means passing from socialism to capitalism; transition from a state of a directed economy to a state of free market; transition from a society with dominating public/state ownership to a society with dominating private ownership; starting processes of new privatisation of all and primarily the economic resources of the state and re-division of the public wealth; establishment of a pluralistic parliamentary democracy; building institutions of democracy; establishment of mechanisms that have as priority the position of the individual - the citizen and they would abstract the

sovereignty of the state and the community from him/her; building standards for protecting the individual and collective rights, etc.

However apart from these benevolent meanings the notion of transition in Macedonia (and in the region) states also centralisation of the economic-financial resources in certain democratically chosen structures of the government. These structures deal with these concentrated resources in a voluntarily and non-transparent manner. The transition is also a process of transition that most usually means devastation of properties and the capacities of the companies to be quickly taken over by private owners for free. The new political parties regardless of the obligatory addition of “democratic” in their names they are built upon and led according to the mentality and the traditions of the old communist structures. The individual-the citizen is completely ignored and it is brought down to political meaningless sentences with a usable value only during the pre-election periods. The political elites are inclined towards manipulations of the citizens in a fierce struggle for influence in the area of media. Any kind of system of values is disintegrated in order to release themselves of any scruples. The state administration and the public services and companies employ people according to the rigid party criteria. The international community is manipulated and used for interior political goals. The institutions instead of being patiently built up they are disintegrated. A spirit of anomy spreads. And so on...

(The meanings of the notion *transition* are presented here on purpose in their extremes in order to have a more clear understanding and diagnostics of the situation.)

2.2. Pluralism

Macedonia entered the world of democracy at the end of the 80s of the 20th century. The first political groups outside the Union of Communists appeared at the end of the 90s so that at the first elections in November 1990 the Macedonian political scene was defined in the main political frameworks that are present even today.

At the elections in 1990 political parties appeared formed by members of the national minorities (Albanians) and on the opposite side (the Macedonian) there was significant presence of parties that based their political approach on the nationalistic rhetoric. The former Communist Party deeply wounded by the general, in the Yugoslav framework,

actions by Slobodan Milosevic, with deep erosion in its party mechanisms and massive leaving by its membership divided itself into several new political groups. Some called themselves liberals, others socio-democrats, third democrats, etc.

The common nominator of all the newly created parties was that they all in their platforms were rudimentary with unclear vision of the political pluralism and democracy. Those parties did not have visions about the essential problems of Macedonia with the exception of the efforts of, according to the electoral results after the first multi-party elections, the biggest party VMRO-DPMNE which in Macedonia was trying to open a big and militant front in the function of its separation from Yugoslavia. However, this politically principle and correct view lacked few things. Namely it was quite clear that such a front would bring Macedonia into an open clash with Milosevic and the Yugoslav People's Army (JNA) which was on Macedonian territory with extremely unpredictable and expensive result for the Macedonian state itself. Hence the politically more moderate groups (former communists, headed by President Kiro Gligorov, elected by the Parliament, together with the liberals and some of the smaller parties) managed to save Macedonia from those risks. With a referendum on 8 September 1991 the independence of the Republic of Macedonia was proclaimed.

Simultaneously with the activities for gaining independence and sovereignty the Macedonian Parliament using standardised mechanisms and procedures (the Constitutional Commission consisting of members of the Parliament, as well as other experts) after few months of debating and in a completely correctly managed process, on 17 November 1991 passed the new Constitution of the independent Republic of Macedonia.

2.3. The constitutional framework from 1991

The Constitution was adopted with majority votes by the MPs of the ethnic Macedonian and citizens' political parties. Because of "reasons of principle" - because of the definition of the sovereignty of the Macedonian ethnos in the Preamble of the Constitution - the MPs from the Albanian parties did not vote for that constitution. However, that Constitution because of the obstructions by Greece and the unprincipled attitude of the other EU member states, through a completely unordinary - and when we take into consideration the European practice, it could be qualified as scandalous - precedent by the arbitrage

of European experts it was reviewed and proclaimed as relevant and quite sufficient as a founding law for any country, as well as multiethnic Macedonia.

The constitutional framework defined all the important institutions of the democracy (Parliament, Government, President of the Republic, Constitutional Court, Supreme Court, Judicial Council, etc.). The 1991 Constitution defined the status of the citizens and its rights, freedoms and obligations in a very satisfactory manner. In that spirit also the collective rights were defined.

One should mention the position and the role of the Constitutional Court as one of the more successful examples of built up institutions. Right after the adoption of the Constitution the highest judicial body was activated and in the current practice it acted as a real corrector in shaping the legislation in Macedonia and the practice emerging from it.

The parties of the Albanians even though they were very clearly against the newly adopted Constitution they based their further political life on the provisions of the Constitution and the legislative practice emerging from it.

On 17 November 2001 after a decade of existence the 1991 Constitution in compliance with the provisions from the Ohrid Framework Agreement changes to the first Constitutions were adopted by the Macedonian Parliament, which in some of its elements are significantly different from the previous constitutional solutions.

(Enclosed: The Ohrid Framework Agreement)

2.4. Institutions

2.4.1. Parliament

At the moment after the parliamentary elections in 1998 in Macedonia we have the third parliament since the country gained independence.

The first two parliaments from 1990 and 1994 were elected according to the majority principle - direct elections in 120 electoral units, and as a result there were 120 MPs. The 1998 Parliament was elected according to a mixed model of both majority and proportional elections. One portion, 85 parliamentary seats were elected according to the majority model in 85 electoral units, and 35 seats were elected according to the proportional model according to which Macedonia is

one electoral unit. The model was changed in 1997 with a clear intention by the political top of the Macedonian political parties to be able to become members of the Parliament and to maintain their positions since the lists for the proportional model were created by the leaderships of the parties. At this moment in Macedonia there are discussions on the new electoral model, and there are different modalities on the table.

From a formal-legal perspective the first Parliament was elected at the time of the Socialism, and the second and the third were elected according to the provisions of the new 1991 Constitution. It was a typical transitional Parliament. Having in mind the obligation that the society undertook to pass over to parliamentary democracy, free market and private ownership as soon as possible, as the foundations of the economic prosperity of the individual and the community, all the parliaments until now managed to pass more than 700 new laws out of which some are basic (on Local self-Governance, on State Administration Bodies, Criminal Law, etc.), and some are laws that cover smaller areas of the life of the community.

Even though for the functioning of the Macedonian Parliament the Macedonian public regularly has remarks, two things need to be divided. Firstly, the Parliament mainly debates and passes laws that are almost 100 percent proposals of the Government elected by the parliamentary majority. Secondly the public makes its negative assessments in regard to the parliament based on the (dis)satisfaction from the overall situation in the society. The guilt for that situation is generally subscribed to the politicians, and mostly to the parties belonging to the parliamentary majority from which ranks the Government is elected. In this case the Parliament as an institution is unjustly burdened with the conduct of the MPs-politicians, outside the parliament, in their electoral units where they with an entire bunch of "transitional" activities threaten not only their reputation and the reputation of the party which candidate they are, but they contribute towards the decreasing of the reputation and the capacities of the entire state. It is amazing that the political parties at the 1998 elections included at their party lists (majority and proportional) so many of their proscribed MPs. Thanks to the electoral model and the pre-election manipulations they managed to be re-elected to the Parliament.

Because of such an undefined position, according to the public opinion polls, the Macedonian Parliament is not so respected by the public. One of the reasons for that is the profile of the "people's delegates".

They are usually “party soldiers”. The most important criterion is to be loyal to the party and not the knowledge or the personal integrity of the candidates. That makes the Parliament “a voting machine” with a party dictate; sometimes even against personal and professional beliefs by some of the MPs.

Because of that conditions are created at the Macedonian Parliament for a Machiavellian fight for changing the ratio of the forces in it. In the current Parliament about 20% of the MPs have changed parties or have become independent MPs even though they were elected from the party lists. The media and the political parties who lost MPs assess this process as creation of a MP Stock Exchange in the Parliament where the majority could be bought in the literal sense of the word either with money or by satisfying some of the MPs’ interests.

2.4.2. The Government

In compliance with the Constitution and the current legislative practice in Macedonia the Government is an institution with the biggest and widest authorities in the state. According to the 1991 Constitution Macedonia is a centralised state where the mechanisms of decentralisation have not started functioning yet (at this very moment for the preparation and agreeing of the new law of local government, those changes are underway). The political parties that compose the Parliament regardless whether they belong to the opposition or the government majorities, they have not shown any interest for decentralisation, i.e. creation of a state that would be easy to manage, and the citizens would have almost a daily insight in the way parts or the entire state are managed. Also one should clearly note that in all these years of independence the Macedonian political elite has not shown neither knowledge nor interest to produce projects that would produce clear and modern laws for the state administration and the state and other public institutions.

The role of the Government as an agent in the contemporary economies is recognised in 4 segments:

- (1) The Government is a regulator of the economy - i.e. an active creator of the economic system (the regulatory framework and the institutional structure through which every economic system “pulses”);
- (2) The Government is the stimulator of the economy - i.e. an active creator of the economic policy (an ambience for domestic business);
- (3) The Government allocates the economic wealth;
- (4) The Government is the consumer of the economy.

The distortions that create the weak state (public) institutions in achieving their role given under point one (1) and the distorted economic policy and the unsuitable general market ambiance expressed in the role of the government given under point two (2), create a surrounding which is very suitable for corruption development. From a practical aspect it is carried out through the given functions (3) and (4) of the role of the Government in the modern economy. Hence, there is one very important discovery: if it was possible for the Government to be deprived of its roles of allocator of the wealth and consumer in the economy, the effect would lead towards the destruction of corruption. However, since it is impossible the only solution remaining is for those two roles of the government to be reduced. A constellation of undistorted economic system and adequate economic policy should be created.

The Macedonian 1991 Constitution by delegating the Government almost unlimited authorities provided the political elites with extremely comfortable position and very pleasant “wind in their back” during the transition - planned and understood in accordance with the negative transitional connotations that have been previously elaborated.

The *government-MPs* composition planned with the so-called *party structures* (party functionaries and activists chosen according to party criteria on senior or junior positions within the state administration) in the past ten years created a state which is not capable of delivering elementary public goods and functions such as functioning of its social, educational, health and other public services, nor to provide elementary protection of its territory, physical security for its citizens, state-legal subjectivity in both the interior and foreign policy, as well as communication with the international community, etc.

The main source of this spreading of lack of perspective and of corruption in the society is the Government, i.e. the political parties (both ethnic Macedonian and Albanian) that stand behind it with their parliamentary majority.

The engagement and the spending of budget or other public means in the developed democratic systems have a specific meaning. In many western and developed states there are special procedures regulated with high legal acts (laws, by-laws, regulations, etc.). The goal is to provide maximum transparency and at the same time to prevent different deviant misuses of the function in determining the needs, the ways and the realisation of the public procurements.

In Macedonia the legal structure of the way and the procedure for

engagement and spending of budget funds (state, previously public) could be found several decades before. In the previous public system the budget funds (at the same time all the funds of the business enterprises) were treated in the category of *public owned means*.

After gaining sovereignty the public procurements are legally regulated for the first time in 1996 with the "By-law on Public Procurements" (this by-law requires announcement of a tender only if the value of the procurement is higher than 50,000 DEM so the corrupted civil servants were very careful to even divide the bigger procurement on a number of smaller ones under the given sum which requires a tender). A more serious attempt for legal regulating of the public procurement have been made by passing the Law on Public Procurements in 1998 that covered all the state bodies, public institutions, public companies, the local self-government and other institutions and companies that use budget means. The practice of the implementation of this law under conditions of further changing the legal and economic system of the Republic of Macedonia as a state in transition showed that many of the solutions included in the Law are already part of the past. The expert analyses show that some of the provisions in this Law promote corruption or misuse of the function in the public procurements.

2.4.3. The President of the Republic

The President belongs to the executive authority and as such he draws his political authority and influence from the fact that he is elected on direct elections and behind (theoretically) him there is one or more political parties. With the current constitutional solutions the authorities of the President of the state are precisely determined and separated from the Government and the Prime Minister, especially in the area of the foreign affairs and defence. It creates conditions for conflict of authorities and insufficient coordination especially when the President on one side and the Prime Minister and the Government on the other do not belong to the same political party or coalition so they are forced to cohabitate. Because of that the "wide area" for acting by the President depends on his capacities and capabilities as well as the capacities and the capabilities of the elite that would support him. This supports the current Macedonian experience.

The first President, Kiro Gligorov, was a politician from the Tito period. He had been a senior functionary in the federal Yugoslav framework for many years (former President of the Yugoslav Federal Parliament, former Federal Minister of Finances, etc.). His basic goal as President

of independent Macedonia was to save the state from possible military destruction. In his time he succeeded in that. Because of the enormous political experience, the developed political and other connections in the society, as well as the great international support he managed on a domestic level to impose himself on all the political parties, to harmonise certain differences and to suggest certain decisions. His strength among others was due to the unreserved support that he always received from the governing parliamentary majority that in conditions of relatively modest constitutional framework provided him an extremely comfortable systematic position.

All these lasted until 3 October 1995 when there was an attack on Gligorov's life. The instigators of that act had obvious reasons: to eliminate the man who represented a unique political cohesive structure in Macedonia, a unifier of different tendencies and the main milestone for the Macedonian efforts towards joining the Euro-Atlantic structures. The investigation of the attack has not discovered, yet any concrete traces. There have been several speculations, which seem to be more in the function of the attack itself and not for successful closing of the investigation.

Gligorov did his job successfully even though many, maybe justifiably, consider that he was too cautious with Belgrade/Milosevic, and that he was too afraid from deep and more substantial efforts in the defence and the security of the state. However, it was proved that the areas where the Macedonian state acts the least or it acts most inappropriately the other actors are more agile and more successful. For the first time this was very obvious at the moment of and after the attack upon the life of Gligorov. The weakness of the Macedonian security structures was also confirmed in the time of the war crisis in 2001 when the armed Kosovo criminals in co-action with the local Macedonian criminals inflicted serious losses in the Macedonian defence structures. Still, in the devastation of the defence structures apart from Gligorov also the Macedonian governments, in continuity starting from the very first day of the independence until today have played their role.

The current President of the Republic, Boris Trajkovski, took over the presidential position after the scandalous, irregular and for the democracy offensive elections. This disabled him from the very beginning in doing his job, burdened with the (realistic) feeling of a political debt towards certain structures from the Albanian camp of political parties in Macedonia (Arben Xhaferi and DPA) as well as to some structures of his domicile party, VMRO-DPMNE.

However, having in mind the galloping degeneration of the political elite in Macedonia it is very paradoxical but still certain that the current president has managed to impose himself as the only state institution that could be trusted at least a little bit. That feeling is growing having in mind that for the international community he is the only person from Macedonia they could build relatively constructive communication with. Because of that in an era of some radical constitutional efforts and redefining the system, the danger of ideas for increasing the authorities of the President on the account of the Government is growing.

2.4.4. Ministries and governmental agencies

What was previously said about the government fully applies for the ministries and the governmental agencies. They are only the concrete articulator of the ideas, or to be more precise of the actions and the activities of the powerful people in the party, reflection of the party leadership and the business lobbies close to it.

2.5. Administration

When we talk about the state administration one should make a distinction between two things.

First of all from a formal perspective the administration includes the Military and the Police (both civil and uniformed personnel), but according to the authorities and the responsibilities they are completely different from the rest of the administration. The Army of the Republic of Macedonia (ARM) and the Police originate from the former security services in Yugoslavia. Some parts of these services still act and think in the way as if they are still part of a bigger federal system. Even though individuals working in these services do that with completely clear motives, most of the employees in these services have a completely indifferent attitude, withdrawing before the attack of the fantasising party cadres. Others take part in intensive political activities, something that would be unthinkable for states with built up democratic mechanisms and administration, which is most directly forbidden to be involved in politics. The Macedonian laws in that sense are "liberal". They even allow the policemen to be involved in politics - but only after hours (?).

Furthermore because of the system of financing the professors, the teachers, the physicians and the other medical personnel are quite unnaturally classified within the state administration. Because of the

limitations established by the processes of stabilisation of the Macedonian economy these two areas (including culture and science) are devastated and brought down to very low levels on the social scale. In conditions of high level of corruption and social acceptance of corruption the metastasising of this "illness" in these two areas becomes alarming.

Finally the administration also includes the other services at the ministries as well as the public servants in the local self-government. They are appropriately profiled to the negative political dictate of the ruling political elite.

In the Macedonian case there is one symptomatic data. More than 5% of the overall population in the state (i.e. 100,000 citizens) have University diplomas. Big portion of them are employed in the state administration. The issue that is being imposed here is how it is possible for a state with such a high level of education in its own administration to have so bad performances?

In that direction - even though important in some other, codified context of a professionalised state administration - the remarks on the ethnic composition of the state administration are now completely irrelevant. However, only in the context of the professional administration, classified and grouped according to certain determined scales the reforms that would realise the imperatives of the Framework Agreement would be possible in a civilised state.

After Macedonia gained its independence the process of establishment of the administration began almost from scratch based on the Republic's administration from the federative system of SFRY that had relatively modest authorities. The construction and the development of the administration was brought down to mainly physical "building up" without paying sufficient attention to the quality of the personnel and the procedures for its functioning without a unique concept for that. That incited great amplitudes in the number of ministries and the governmental institutions, frequent personnel changes that were usually based on party-nepotistic basis that resulted in partisanship of the state administration. The atmosphere of political division is more and more present in the wider society and it creates high level of politisation among the citizens.

The mediocrities holding different positions in the state apparatus - positions that they would hardly get based on their real qualities without the party position - brought about a situation where this personnel is blindly obedient to the top of their party. The instructions from the party

superiors are always carried out even if it means breaking laws and regulations. Most appropriate and at the same time most grotesque illustration of that is the scandalous establishing of diplomatic relations between Macedonia and the Republic of China (Taiwan) in 1999. The operation was carried out by a very narrow circle of people on high governmental positions coming from the same party (Democratic Alternative), completely non transparent and under suspicious conditions and motives without informing the authorities such as the President of the Republic and the Parliamentary Commission on Foreign Affairs.

After relatively long ruling (over 6 years) of coalitions led by the same party (SDSM) in 1998 for the first time since the independence of the Republic of Macedonia there was change of power. The new ruling coalition led by VMRO-DPMNE simply continued the previously established path of partisanship of the administration. After they came in power they simply "wiped out" the management personnel in all the state institutions and bodies down to the lowest levels of the administration. This has incited significant discontinuity in the work of the state apparatus, and created "interior opposition" in the state apparatus directly moving the political fight where it was the least needed and desired.

This situation was additionally complicated with the division of the party elites on national basis no matter whether they have a good cooperation in the governing or the oppositional coalitions. What connects them and enables their survival is the desire to conquer or stay in power. In such conditions the symbiosis of the former most severe opponents and today's coalition partners-the two most right oriented parties from the two national camps - VMRO-DPMNE and DPA (Democratic Party of the Albanians) became possible. Still, on an operative level, in the organs of the administration, the cooperation between the functionaries belonging to different parties both in the past and today is burdened by lack of trust, communication and teamwork.

All these shows elements that the Republic of Macedonia could be placed in the category of "weak states" which are not able to offer top quality public goods and to regulate them well and to guarantee the social and the state processes. The need of deep reforms is obvious. The regular flow of the social processes that could bring about imposing of a necessity of such "tectonic" efforts will be a long and unpredictable process and it might be passed over in time by the challenges for the stability of the Republic of Macedonia. This was shown with the crisis

in 2001. Because of that there is a need of an engagement by the international community that would provide support (financial and expert), direction, acceleration and control of the quality of the reforms.

2.6. Economy

In conditions of a blockade as well as in conditions of losing the organic link with the Yugoslav market that all the economic projections in the past 70 years were built upon, the Macedonian socialist economy with public ownership (partially privatised according to the completely uneconomic logic of the last Yugoslav government - "Ante Markovic Model"), entered the independent and sovereign Macedonia already quite devastated. But that was only the beginning.

Having in mind the time imperatives at the end of 1992 a process of real privatisation began. One should underline that in such a situation the bank institutions were still under some indirect state (government) control. What happened? In an environment of lack of new foreign or domestic investors, so-called *managers* in the companies - the former socialist directors - in the process of privatisation in most of the cases they imposed on the workers the model of "management buy of the right to manage". The model is quite simple. The model is registered at the Privatisation Agency as a way of privatising the company. Together with the model an estimate of the value of the company is presented (previously with bookkeeping mechanisms and other methods with deliberate unpaid debts its value is decreased). This estimate of the value of the company is supported with certain political arguments by the political opportunists connected to the managers based on business interests. After getting an approval by the Agency to start the privatisation, the managers as legitimate company managers put up bank mortgage on the entire or part of the property of the company, they take a credit that they use to pay the estimated value of the company. Certainly, the credit is paid off by the workers since it is presented as production expenditure. At the same time with the growth of the financial power of the managers they buy off the stocks given to the pension funds, they buy off stocks from the so-called small stockholders who live on the verge of poverty, etc.

But certainly the goal of the privatisation never and nowhere has been to establish an ideally just model of division. The primary goal of the privatisation, the Macedonian one included, was to establish the least unjust model and for the companies that were being sold they were

supposed to provide social security for the workers, gradual restarting of the production leaning on the capability and the knowledge of the managing teams. But having in mind the fact that the banks were under complete control of the politicians (and the managers close to them) in the implementation of the policy for appointing credits the money were thrown away on bad credits, often to support operation for breaking the embargo towards Yugoslavia, participation in the international chains of smuggling of cigarette, drugs, etc. portion of the money were used for buying "social peace", i.e. giving low salaries to the unproductive employees in the destroyed companies.

In the decade that is behind us the Macedonian state spent over 3 billion DEM for these purposes, out of which only small sums of money reached the citizens and most of it went to the accounts of the banks or the criminals.

This created an ambiance where the political elites were thinking lesser and lesser of the interests of the citizens, i.e. the state. The reforms stopped in mid nineties and then the legal projects were produced in a way that satisfied the formal aspects without a real interest for the community could benefit from it. The political elites penetrated deeply in the oligarchic structures that were created with the "managers and the heads in the Balkan criminal and smuggling chains".

In the entire operation of privatisation, carried out in an environment of organised breaking of the embargo against Yugoslavia and organised overcoming of the consequences of the Greek embargo, there was not left much of the Macedonian economy. The companies that successfully carried out some of the privatisation models are not so many. Thanks to the real private initiative as well as foreign help that even though modestly was presented by some specialised foreign agencies, today in Macedonia exist about 100 small companies (up to 100 employees) that have real production, real and legal businesses and their workers belong to the category of best paid and best protected workers.

The rest of the companies that function are either public companies - in a monopole position - or companies that have certain advantages in their work simply because they are close to the oligarchic structures in the state.

2.6.1. Privatisation

The privatisation in the Republic of Macedonia started in 1989 (with the Law on Public Capital in Former SFRY), however the process

reached its top in the second half of the nineties, i.e. after passing the Law on Transformation of the Companies with Public Capital.

According to this Law there are many methods for privatisation that differ depending on the size of the company. The small companies could be privatised according to the following methods:

- By being purchased by the employees;
 - By selling of an ideal part of the company through auction.
- The medium and the big companies could be privatised with:
- Privileged purchase via tender;
 - Issuing stocks for gaining additional capital, carried out with a tender;
 - Simple selling of stocks at an auction;
 - Through conversion for justification of debts.

Apart from this other methods of leasing of the goods could be used as well as privatisation through a procedure for bankruptcy and selling of the overall property of the companies. In 1999 a method for direct selling through direct negotiations with the strategic investor was accepted, that proved to be non-transparent and easy to misuse for financial frauds.

Having in mind that the privatisation is not a goal to itself but it should be used to achieve certain goals apart from achieving effective, as the basic goal of this process, other goals of the privatisation are: *increasing the credibility and acceptance of the economic and the social reforms, attracting foreign capital, establishing stabile and permanent development, providing development of the capital market, productive engagement of the domestic savings that are kept outside the banking system, etc.*

According to the official data from the Privatisation Agency since the beginning of the process until 2000 more than 1600 companies were privatised. The total number of companies that should be privatised is 1700, which means that the process is almost finalised. According to the assessment of the carried out privatisation until now public capital with nominal value of 120 billion DEM is sold, for which selling 4.5 billion DEM have been received. Apart from the big discounts that for some state stocks were 70% and for others even 90% from their nominal value in the privatisation procedure numerous irregularities have been noticed as well as incompliance with the existing legal

regulations. This refers especially to the incomppliance with the legal obligation for transparency in the privatisation and announcement in the daily papers the offer of stocks at the stock exchange as well as selling of the public capital on a credit which regardless of the legal prohibition for that kind of transaction it turned into a regular practice.

At this way the privatisation in the Republic of Macedonia has not achieved the wanted effects not only from the aspect of gaining effective that would be further invested in the economy but it also incited quite opposite effect in regard to the *credibility and the acceptance of the economic and social reforms, attracting of healthy foreign capital, establishment of stabile and permanent development, development of a capital market and productive engagement of the domestic savings.*

The non-transparency, direct deals, high provisions, buying of companies and banks by the political parties and persons close to them, tax evasion in the procedures of changing the owner, great discounts and other financial malversations that happened within the framework of the privatisation in the Republic of Macedonia incited complete mistrust among citizens towards this process.

2.6.2. Direct foreign investments

The direct foreign investments have always been considered as an important part of the process of privatisation. In that part during the entire period of transition the Republic of Macedonia has been faced with bad political and security conditions in its surrounding expressed through blockades, embargoes, war threats, etc. The potential investors consider the area to be risky for investments and as a result it is the employees and the managers the usually bid for the companies and thus the employees own most of the companies.

Until the end of 2000 33 companies were privatised with a total value of the foreign investments to be about 104 million US\$. In the post-privatisation phase by selling stocks to strategic investors additional 130 million US\$ of foreign investments have been realised.

The trend of liberalisation and deregulation was also implemented in the regulative that refers to foreign investments. The foreign investors have an equal status with the domestic ones, and because of certain tax and customs relieves they have even a privileged position compared to the domestic investors. There are no restrictions in regard to the industry that allows foreign investments, as well as no restrictions in the percent of the capital that could be owned by foreign citizens, and the repatriation of the profit is guaranteed by the Constitution.

Apart from the steps for legal relief for the direct foreign investments that have been undertaken in the past ten years compared to the other states in Southeast Europe, the Republic of Macedonia notes a very small input of foreign capital. This is due primarily to the situation in the surrounding but also to the insufficient activities of the plan for presenting Macedonia as a possible place for investments. However as a significant factor that strongly influences this sphere one should emphasise the bad *interior ambiance* expressed with the insufficient level of law governance and respecting of laws, mistrust in the judiciary and high level of corruption in the state administration.

2.7. Organised crime

In a situation of existence of different both objective (the situation in the region, refugees crisis, etc.) and subjective (the interests of the individuals in the leading structures of the ruling political parties for personal wealth, the efforts to keep apparent social peace, strengthening of the financial and by that of the political power of the ruling parties) reasons and interests, for a long time in Macedonia the creation of a quality legal framework for prevention of the contemporary forms of crime has been avoided. This includes organised crime of all types, financial frauds, money laundering and corruption. Also the creation of legislation for international cooperation in this area has been avoided. This situation has contributed for delaying or avoiding the creation of specialised, well-equipped and manned services for efficient prevention and fight against these types of crime.

The relevant data point out the current situation in the area of crime, in the area of concentration of the financial power in one individual and creation of conditions for corruption for endangering the democracy and the rule of law. It is not so much talked about confiscation and creation of conditions for confiscating illegal financial incomes. Also the conditions that foster money laundering and contribute towards incorporation of illegal incomes in the legal financial flows are not sufficiently analysed. The analysis of the possibilities for efficient inclusion in the international fight against these phenomena that the national legislation offers is marginalized. Everything is brought down to declarative satisfying of the daily political needs or irregular satisfaction of pressures from abroad that happen from time to time.

The official data show a few times growth in all types of crime. For example if in 1991 24 cases of drugs trafficking were registered in

1999 that figure went up to 210 cases. If in 1991 40 pieces of illegal arms were confiscated in 1998 the figure of illegal arms was 3,000 pieces. The number of discovered cases of illegal cigarettes trade for example is doubled every year. If we have in mind the methods for determining the dark figure in these types of crime the discovered cases represent only one third of the overall real crime. The level of criminal infection is high especially in the area of forbidden trade, drugs trafficking and economic and financial crime. If one takes into consideration the situation in the area of crime like violence, illegal immigration and the growing trade with people and prostitution, it is clear that in Macedonia there are organised criminal groups that are active in new highly sophisticated forms of crime.

On the other hand the events in the Republic of Macedonia in 2001 increased the need of arms. The emphasised unemployment in the countries of the former socialist block and Macedonia itself contributes for further growth of the illegal immigration and prostitution as well as the increased profit from drugs trafficking. This leads towards further increase of the interests for operating of the organised criminal groups.

Nevertheless the lack of empirical material on which basis one could draw up exact conclusions regarding the presence, the methods used and the subjects participating in the process of money laundering, the increased presence of crime creates great sums of illegally gained incomes that are turned legal in different ways.

In this situation the thing that imposes great damages is the vagueness of the legislation, the weak regulatory control of the banks, the financial institutions and other non-financial institutions that offer different kinds of financial services. The state has no control over foreign currencies entering Macedonia. There are no legal provisions to control the investments and the transfers of money. The possibilities for carrying out a top quality investigation are limited as well as the international cooperation in the area of investigation, bringing charges and confiscating the incomes gained with criminal activities. The reforms in the criminal-legal area and the legislation in the area of finances are intentionally slowed down or misdirected. That enables for the criminal needs and interests of the ruling structures to be satisfied.

2.8. Political parties

The Macedonian political parties date mainly from the first half of the 90s of the last century. This refers both to the parties of the so-called Macedonian political camp and the parties of the so-called Albanian

political camp. As it was already mentioned it is a group which members used to be members of the Communist Party of Yugoslavia/Macedonia and who understand and articulate the process of pluralism with simple replacing of the party membership books. Thanks to the role and the power of the politics, especially when the political structure is close or in power, the political parties function according to the rigid Bolshevik principles and according to the rule of absolute power of the party's chief and those around him.

The mechanism for building and sustenance of such parties is so perfected that in the biggest three or four parties even mentioning the name of the party's leader or some other person close to him is done with special modulation in the voice. Some kind of changes, responsibilities, resignations or similar democratic practices are not even mentioned even though the two biggest parties from the Macedonian camp had real political fiascos in the past - SDSM was catastrophically defeated at the parliamentary elections in 1998 and at the Presidential elections in 1999; VMRO-DPMNE almost lost the country (this story has not ended, yet) and they had a heavy defeat at the local elections in 2000. The problem of the interior party democracy in the Albanian political camp of parties is even more emphasised having in mind the more rudimental forms of party activities, leadership and organisation of these parties where the use of arms in the mutual interior party and inter-party "democratic" clearings is quite present.

The great financial means necessary for the functioning of the party apparatus and the participation at the elections are significantly bigger than those that could be collected legally. The difference in the sums is provided from the big business, in cash outside the official party accounts. The financers understand it as an investment that would pay off with interest. The only way to have their money back is to be given a privileged position in the public procurements, avoiding the financial obligations towards the state, securing good credits, being privileged in the process of privatisation, etc.

The Republic of Macedonia went a step further - in order to avoid the need of financing the parties from the business. Some political parties started establishing political companies. The Constitutional Court stopped such practice but the decision was avoided by passing the ownership of the companies to leading party personalities.

We should mention one moment. Since the establishment of the first government of independent Macedonia until today a principle has been introduced that in certain situations has proved to be extremely

productive. Namely all the Macedonian governments starting from the first one until the one today are coalition governments and there are always several ministers from one or more parties from the Albanian political camp. The usefulness of this model referred primarily to building constructive inter-ethnic climate and ambiance of trust. The Government has been the place for prevention, i.e. resolving of some of the current or potential conflicts. Having in mind the structure of the Government in the Macedonian political system the political elites of Albanians very soon realised the lucrative moments of the interethnic coalitions. Accordingly to the Macedonian side with mild delay but still rapid pace (this is specially emphasised in the coalition that came to power in 1998), with given doze of pluralism that is necessary when we speak of the population of Albanian ethnic origin, the Albanian political and business oligarchies very soon joined their Macedonian partners. At the same time when SDSM was in power in Macedonia together with PDP the criminal brotherhoods were more discrete. However, after the 1998 elections these brotherhoods reached its peak accompanied by mutual escalated statements about how "relaxed the interethnic relations in Macedonia are", non critical policy towards certain UCK structures in Kosovo, etc.

These developments were supported by a certain regional constellation (NATO war against Serbia; the big wave of refugees from Kosovo to Macedonia; the big transfers of different kinds of goods from and through Macedonia to Kosovo; the money of the international community for support of Kosovo, etc.).

The desire to come to power starts unscrupulous fights between the political parties at the elections that become more and more irregular and violent. The last local elections in 2000 apart from the numerous remarks by the opposition parties and the negative assessments by the international observers brought about many physical conflicts and use of firearms, especially in the election units where the competing candidates were of Albanian ethnic origin.

Finally, the Macedonian citizens (regardless of their ethnic origin) got political elites, which are capable of anything and completely irresponsible for their own deeds. It has been proved that the models of pluralism, i.e. articulation of the political will and interests only through political acting of the parties and the elites are already used up in all the possible combinations and at all levels of the political map (right, left, centre, half-left, half-right, alternative, etc.). This only additionally pushes the citizens towards depression, passiveness, etc.

In such a situation Macedonia was faced with a military conflict with criminal-politicised and encouraged groups. As a result of that conflict in the days behind us Macedonia in the political field was working out the obligations from the Framework Agreement signed in Ohrid.

The diagnosis is clear: the Macedonian democracy is on a very low level with discredited and devastated institutions and political elites. Most of the political platforms have been spent or discredited (liberal, social-democratic, people's, national, demo-Christian, Islam, green) etc. The dilemma is the following: What should be done, i.e. what should the Macedonian citizens do? They won't get any help from politics. The only field at which they will have to face their conscious is the civil society. Only though the build up networks and mechanisms of the civil society the sprout of a quality progress related to state ruling is possible. Only a civil society would be able to keep the Macedonian policy in a "sanitary cordon" with minimum possibilities to produce damages not only in its own country but also wider.

2.9. International community

Under this abstract notion the citizens of Macedonia understand not very clear and defined things. It is a variable with very instable standards of conduct.

For example in the case of Greece it was shown that that international community (EU and NATO) is capable of working to their own harm since the metastasised Macedonia is the centre for "infections" that could easily surpass its regional borders.

It seems that for the international community is difficult to find its way around in border cases (borders of military blocks, borders of civilisations, borders that were drawn in Yalta, etc.) such as the case of Macedonia. One should have in mind that the international community (NATO and EU) based on their own conduct either lacked good enough insight that there is a controlled disintegration of socialism underway, including the USSR or because of inexplicable slowness in all the critical phases and moments of that fall it acted late.

The international community suffers from another weakness and that's its insincere homogeneousness. Namely, it is clearly obvious that in regard to the subtle situations (such as the Macedonian military crisis) the relations between the members of that community are insincere, that there are solo-politics and that all that goes at hand to the "other

side". Also certain political and security structures in the neighbouring countries of Macedonia got signals that they interpreted quite wrongly. One should emphasise that the international community in very inexplicable but very clear situations have never managed to recognise the real individuals and groups and to support them accordingly. As a result in Macedonia groups and individuals that rudely forged the elections, and used democracy only for personal and group interest got both political and financial support.

As a result of a thoroughly prepared and worked out theoretical approach the Stability Pact project appeared. The Pact increased the general inter-state communication in the region and brought back the Balkans on the agenda of the international organisations, especially the European Union. However, apart from the criticisms from the very beginning that these were inappropriate projects, the ones that the Pact refers to got the least concrete help no matter that it is very true that the Balkan states (including Macedonia) are mainly unprepared to accept assistance for the given purposes for which it acts.

The assistance of the international community understood as associations (NATO, EU, UN, Stability Pact) or as individual states (mainly members of G07) on a political level has almost always been carried out within the framework of the following rule "The right people in the wrong time", i.e. "The wrong assistance in the right time for the wrong people".

In regard to a wider network of international humanitarian organisations the problems are different. The foreign humanitarian organisations, foundations and agencies under the patronage of some states, have realised many successful programmes. (The programmes for assistance of the small size businesses have already been mentioned, we should mention the programme for support and development of the cattle business and dairy industry, then the actions of some investment funds and their investments in already successful companies, etc.). These organisations spend about 50 million Euros a year in Macedonia.

3. What's to be done?

It is very clear that Macedonia needs a fast, efficient assistance directed to the right place. It is very clear that that assistance must be kept far from any influences or in touch with any of the political structures i.e.

the politician-individual. Those who help will need to establish a system of rigid but still dignified control of the spending of money. In choosing the controllers they should be extremely subtle so that the controller would not be taken as a commissar. The foreign donations should be used most urgently for repairing, finishing and building of as more as possible of infrastructure (by engaging Macedonian companies and foreign supervision). The state, i.e. the political elite should insist on legislation projects that will not be only formal but will also foster and improve the essence of the regulated area (law on state administration, law on institutions, etc.).

The civil society will have to be help as rapidly as possibly in order to be capable of imposing itself on the politics. In that sense the education of young cadre needs to be helped, as well as their material and moral support. A new circle of assisting the media as the basic pillar of the civil society needs to be opened.

The efforts of the international community are significant and should be greeted but the occasions when it acts in a routine manner and without sufficient knowledge of the characteristics of the country are not rare. On the other hand in some of the administrative structures a passive resistance exists towards the changes as a result of the desire to maintain the commodity of their functioning. The resistances in some parts of the reforms emerge from the attitude of calculating by the parties in power in regard to whether the reforms would incite dissatisfaction among the electorate. The confirmation of the need for such calculations is the fact that in the region in the last ten years none of the Governments that carried out deep structural reforms were ever re-elected.

Because of that the international community should go into planning and assisting the reforms in the Republic of Macedonia, in a more essential and courageous manner and with more concrete support.

In doing that it should lean upon the third, non-governmental sector, which ideas and proposals could be of great help because of many reasons - significant portion of the intellectuals are not members of political party or part of the administrative life, the non-governmental sector is not burdened by the need to calculate with the voters, as well as the fact that in many of its international contacts it has accumulated a significant quantity of information about the reforms in the other Balkan and Eastern European countries.

The described environment is not an appropriate atmosphere for the

process of reforms and getting closer to the EU and NATO standards that the Republic of Macedonia as well as the other Balkan countries must pass. The Macedonian administration and the Parliament are trying to find their way around the numerous laws and sub-legal acts, structural changes in the organisation and the efficiency of the state apparatus and they do that with noticeable oscillations. A key role in paving the path towards restructuring and integration of the Republic of Macedonia could also be played by the administration of the EU, NATO and the rest of the international organisations and integrative processes with a coordinated and well-prepared diplomatic pressure for reforms.

The political elites should be told directly that every individual who will be especially active in the transitional machinations will be on the list of unwanted and the domestic (Macedonian) public will be informed about that. "Some circles" in the neighbourhood will be very sincerely and very openly presented with the intention for Macedonia to become a healthy tissue and that everybody could profit from such a healthy tissue.

On the contrary, divided and weak Macedonia will be damaging for everybody, and especially to its neighbours.

MONTENEGRO: COUNTRY REPORT ON THE STATE FOR DEMOCRACY AND A ROADMAP FOR REFORM

CEDEM, Center for Democracy and Human Rights

State of Democracy and Potential Obstacles

After the transition which has formally been going on for already eleven years - it is the time that has passed since the first multi-party elections were held - it is not easy to assess the state of democracy in Montenegro in a simple manner. It is a little bit easier to present the different periods of what Montenegro has gone through during these eleven years. Conditionally speaking, three main periods can be observed:

- The period 1990-97 in which Montenegro existed mainly as a part of the system of rule of Slobodan Milosevic in the FR Yugoslavia, with relative autonomy and just slightly softer political order than the one in Serbia, although based on the monopoly pattern of rule by the then undivided Democratic Party of Socialists (the DPS) within the formally competent, multi-party system.
- The period 1997-2000, in which the earlier undivided ruling DPS fell apart, the anti-Milosevic stream became dominant and won first at the presidential (1997) and then the parliamentary elections (1998). This was the period of significant liberalization of political order, the beginning of first serious systemic reforms and adoption of a clear pro-Western course in the foreign policy orientation. This period was marked with a harsh three-year fight between the pro-democratic government in Podgorica and the Milosevic regime in Belgrade, often at the verge of an armed conflict. The most dramatic moment of this period was certainly the three-month NATO intervention against the FRY, when Montenegro proclaimed factual neutrality in the strife, and in fact acted as an indirect ally of the Western Alliance, admitting at its territory 79.000 Albanian, and after that over 30.000 Serbian refugees from Kosovo. Unlike in the previous period of monopoly rule, in this period the DPS adapted to a new reality and showed readiness to share rule within a coalition government, but still remained the predominant party and kept its most significant prerogatives of rule. In this period another significant change happened – a trend towards state independence grew significantly, both within the political elite

and the voting body, and so the idea of state independence, which had been a minor idea, became, at least, a slightly predominant one.

- In the period from 5 October 2000 until now, after the Milosevic regime in Belgrade was toppled, Montenegro has been losing the previous importance it had in the international community as one of the key links of the anti-Milosevic front, and at the political scene the issue of state independence has become predominant over all other issues. This issue caused a government crisis and early parliamentary elections in April 2001, at which the voting body was divided to the pro-independent majority (54%) and the federal minority (46%). The dominant party (the DPS) has been forced to a less convenient form of rule than in the previous period – to a minority government which depends on support of the Liberal Alliance of Montenegro. This period has been marked by slow manoeuvring regarding the issue of independence, both between Podgorica and Belgrade and within Montenegro itself. The unsettled issue of state position has become an increasing burden both to Montenegro and Serbia, with an extremely unfavourable influence on the realization of necessary reforms.

If we try to define the state of democracy in Montenegro after eleven years of the multi-party system, we could still make use of certain useful distinctions. After breaking up with the Milosevic regime in 1997, Montenegro has not functioned as an authoritarian regime, or any of its versions. Even besides the fact that president Milo Djukanovic represents a dominant figure and accumulates power stronger than has been constitutionally provided for his position, and the fact that the DPS, within the coalition minority government, represents a predominant party with greatest power, the political system is in essence competitive, and elections at all levels, besides all insufficiencies, still have the character of uncertainty and leave possibilities for shifts at the ruling positions. It can be said that in Montenegro, from the standpoint of regular electoral procedures, democracy has become “the only game in town”. All relevant research of public opinion (including the one conducted by the CEDEM) corroborate this statement, because over 80% of citizens support democracy and the multi-party system. An indirect contribution to this opinion can be found in the percent of citizen turn-up at polling places (between 70 and 80%), at all electoral levels.

Like many post-communist countries, in this sense Montenegro functions as an *electoralistic democracy*, with certain elements of *liberal democracy*. Still, it is a fact that Montenegro has still not become a

legal state, i.e. it has still not established the rule of law in the usual sense of that word.

Although even in the developed liberal democracies in the West there are no absolute guarantees that these democracies cannot be endangered, engaged in a kind of involuntary process or even destroyed, these risks are even greater with electoralistic democracies. If we try to foretell things, we could say that it is more probable that in the years to come Montenegro is going to take the course of strengthening of the democratic system, and that the apprehension of a retreat to a kind of undemocratic system is less probable. Still, the threats to the democratic process spring from several potential sources, which are not unbridgeable, but which should be seriously taken into consideration.

The greatest burden to functioning of democracy in the usual sense is the already mentioned *unsettled issue of state position and a rather deep division of the voting body*. The issue of the Montenegrin state position, i.e. the character of its state relation with Serbia, belongs to a group of problems of the so-called long duration. This issue has not ensued only after the breakdown of the communist Yugoslavia, but it has deep historical roots dating back to the end of the 19th and the beginning of the 20th century, when, in the confusion of the World War One, Montenegro lost its statehood and was annexed by Serbia. This problem was not seriously considered during the 70 years of existence of Yugoslavia, but has been actualised when Yugoslavia fell apart in 1991, when a new Serbian-Montenegrin federation (the FRY) was established, and it has been especially emphasized by the authoritarian nature of the Milosevic regime.

However, unlike for example Slovenia, Croatia and Macedonia, where the convincing pro-independence majority was never questionable, the Montenegrin population has been almost equally divided regarding the issue of state independence. Based on numerous polls of public opinion, as well as on the results of the most recent elections (April 2001), at this moment it can be concluded that the pro-independence block has a slight majority and a bit better chances to win at the potential referendum on independence. However, this majority is not convincing, which at this moment turns the solution of the state position into one of the potential threats to Montenegrin democracy and stability.

Still, we do not believe that this issue can represent a threat to peace in the Republic and that it can generate violence. Such a capital threat

is most probable to have perished together with the collapse of Milosevic's regime. Today, despite divisiveness regarding this vital issue, there are no significant political powers ready to engage into violence.

The new DOS (the Democratic Opposition of Serbia) government in Belgrade, although it favours the survival of the federation, has no interest in war adventures in Montenegro. The Government in Belgrade has already stated that it would accept any solution chosen by the citizens of Montenegro. It's priority is the renewal of Serbia and complete return to the international community, and it will, eventually, rather renounce Montenegro than involve into new problems. The Yugoslav Army is, besides all problems with the personnel from the Milosevic period, controlled by civil authorities and it will not act against the will in Serbia and the federation of the ruling DOS.

Both main political blocks in Montenegro – independistas and federalists – also do not have motives or interests for violent imposing of their solution to the other side. These two blocks, i.e. their main parties (the DPS and the SNP) will remain politically strong in any version of the solution of Montenegrin state position, and hence the game to get “all or nothing” regarding the issue of Montenegrin independence brings them nothing but a great risk.

Finally, the most important countries of the international community factually already lead two complicated and potentially long-lasting peace operations in the region (Bosnia and Herzegovina – SFOR, Kosovo – KFOR/UNMIK) and each new instability or crisis does not suit them.

However, although the violent scenario can almost be excluded, the statehood issue threatens democracy and stability in Montenegro in other ways. Namely, both Montenegro and Serbia *should define the state framework within which the necessary economic and political reforms are to be realized*. The very defining of the state framework does not automatically imply successful reforms, but it is quite certain that the current situation of state “limbo” – neither a federation nor two independent states – greatly restricts reforms. Without necessary reforms, the population would generally lose confidence in the elementary ability of political elites, which has always represented a favourable ground for various demagogic political formulas, populist and retrograde political forces. This at the same time includes latent threats to definitive stabilization of the democratic order.

One of the extremely unfavourable versions for Montenegro is the

scenario of a creeping parting from Serbia, with constantly present political conflicts, without minimal agreement both between Belgrade and Podgorica and within Montenegro itself. Such a scenario would keep a relatively high level of political tensions, additionally block the reforms, and could also result in organization of a referendum on state independence without agreement of the main political forces and after much uselessly spent time.

Such a scenario could be indirectly or unintentionally stimulated by the leading countries of the international community, if they remain steady in their standpoint about "democratic Montenegro in democratic Yugoslavia". Of course, this can be a legitimate preference of the USA and the EU, but only provided that the federalists do not use this as a basis for their threat to boycott the referendum and to set the conditions the other side simply cannot accept. In such a situation the pro-independence block would be forced to organize a referendum on independence, even without reaching an agreement on procedures, because it is not realistic to expect that the block which has the majority in the Parliament and which won the elections on the platform of state independence, is suddenly going to give up its basic programme aims. Of course, a referendum which would not be a result of an agreement between the two main blocks, but boycotted by one, and maybe even unrecognised by the international community, would cause a long-term political instability and political conflicts. In this sense the active, but neutral position of the international community is of great importance, which, unfortunately, has not always been the case regarding this issue so far.

It is particularly important to provide conditions for the referendum on independence to be carried out in a fair and transparent way, with participation of all interested parties and previously taken obligations to respect the result, no matter what it is like. Only in such case the solution of the state position would not be contrary to stabilization of democratic order in Montenegro, but would support it.

The long-term problem of Montenegrin democracy could be connected with *an absence of strong reform and modern alternative to the current rule*. The Democratic Party of Socialists (the DPS), i.e. its part which emerged as a winner after the schism in the party in 1997, has been continually in power for twelve years. First it was the heir of the Communist Party, then Milosevic's ally, after that its opponent and finally, in the post-Milosevic period, a leader of the pro-independence block. It would be wrong to deem that today it is the same party. It has

changed together with the changes in its policy. After the schism in 1997, a serious and positive turning point happened, where the more modern oriented members of the party elite, as well as younger and more educated party members, remained with the anti-Milosevic side. Still, the years long rule has created various forms of political and economic monopolies, including corruption and participation or patronage of illegal businesses. In accordance with the circumstances or needs of the times, the DPS accepted the necessity of sharing the rule with coalition partners, but it remained the predominant factor of the overall political system. Even in the most developed and most democratic countries, such a system with a years long and many elements of monopoly domination of one party (for example Italy, Japan) creates clientism and introduces instability in the democratic order. In a country in transition, like Montenegro, a years long rule of one party can additionally slow down the stabilization of the democratic order.

However, the problem with a credible, strong, modern and reform oriented alternative, i.e. opposition, is even more emphasized in Montenegro. The main opposition party in Montenegro is the Socialist National Party (the SNP), also emerged from the earlier undivided DPS, out of which it separated as the *pro-Milosevic* fraction. The new party gathered conservative officials and members. Its predominant voting body has the same characteristics. This party has also been in power for twelve years – either in the Republic government within the former undivided DPS, or in federal authorities after the schism in the DPS. Although after 5 October 2000 the SNP turned its back on its former ally Slobodan Milosevic, it still participates in the federal government even today as a compulsory coalition partner of the DOS, and despite the fact that its attitudes comply with the current political preferences of the international community (“democratic Montenegro within democratic Yugoslavia”), this party (and the coalition “For Yugoslavia” led by it) *does not represent a reform alternative to the DPS*. The values of its voting body are mainly anti-modern and often anti-Western directed. Nationalism, and even chauvinism towards non-Orthodox minorities in Montenegro, could also be heard at their pre-electoral meetings. From this standpoint, taking all the risks of using analogies and comparisons, we could say that a victory of the SNP and its allies at potential elections in Montenegro would look like potential victory of communists in Russia. Or, in order to be closer to reality, it could be compared to a return of Iliescu’s party on the ruling positions in Romania.

All this is not just about the SNP, but about a very unfavourable phenomenon – the party in power has considerably spent its potentials and energy, and an opposition representing a hope for changes is inexistent. It could be even spoken about a crisis of the overall political elite in Montenegro and its spent potentials. Such states can have long-term unfavourable consequences for development of the democratic order.

If we add to this the typical illnesses of various post-communist societies – slow establishment of a system of independent judiciary, largely non-transparent economic transition creating the monopolistic “new classes”, huge administration whose serious reform has not even started at all, etc. – we have a picture of a society which has to overcome numerous obstacles – some more difficult, some easier, in order to reach what is called a consolidated democratic order.

Regional Context

The challenges of democracy in Montenegro can also come from the regional level, concerning the fact that this has been a region of crisis and instability for a whole decade. The last decade of the last century, the breakdown of “great” ideas and ideologies and the end of the communist experiment *in vivo*, revealed, as opposed to global analyses and forecasts, that at the geo-political map of New Europe the last focus of regional instability (with potentially global consequences) was at the territory of the former Yugoslav “socialist utopia with a human image” and slightly more to the south. The first year of the century with an even more seducing ambition – to finally achieve democracy and spread its planetary virus – just additionally confirms this statement.

So, at the end of such, quite unexpected and unplanned end of the century, the end of communism, the end of Yugoslavia and the Yugoslav idea, Montenegro, Macedonia and Kosovo got a much greater role and significance, logically, or perhaps ironically, by historical fate, than they could have got under other circumstances. This fact has been and is, at least for some more time, at the same time their potential chance and their latent risk.

The differences and similarities between these three *entities* are almost fascinating. **Macedonia** – *de facto* and *de jure*, is an internationally recognized state and a UN member, but without the right to its name. It is quite unclear why and even more unclear until when!? **Montenegro**

– *de facto* independent for several years already, but without international recognition and without much inclination to be admitted this right, disregarding the majority will. It is quite unclear why and even more unclear until when! **Kosovo** – both *de facto* and *de jure* a more or less classical international protectorate with absolute ambitions of the absolute majority and complete political elite to take the way to independence. The alternative is a return to the corpus of **Serbia**, the state whose leaders, only yesterday supported at plebiscites, are in The Hague, and because of whose monumental crimes the NATO intervened, and Kosovo became exterritorialized and put under international protectorate. In the case of Kosovo everything is unclear and even more unclear until when! Supposedly, that is why there is the fourth entity called FR Yugoslavia (Serbia and Montenegro), a state which *de jure* exists, which is internationally recognized and is a UN member state. However, the FRY does not *de facto* have the rule at the territory of its constituents. Here it is clear why, but not until when this state is going to last and how this is going to be overcome!

This lapidary and possibly simplified outlook of the current political and constitutional limbo in which Macedonia, and especially Montenegro and Kosovo, have found themselves, indicates clearly enough that already in the sphere of unclear and unfinished international legality and legitimacy of these three political communities lies one (not, of course, the only) of the most serious sources and potentials of their inner non-freedom, democratic insufficiency and instability. In the neighbourhood and in the region, which have never been spared from similar problems, the inner instability, regardless of its real causes and roots, generates instability in relations with neighbours almost according to a natural law. This instability between neighbours is, again as if by a law, reflected on the wider region with more or less immediate implications on the global map of geo-political relationships and constant, but variable interests of the most powerful countries. This is why the international community spent so much time (not always quite successfully) in dealing with the Balkans and its South at the end of an Era, which last decade was, more or less, filled with self-complacency because of a too early conclusion about the historical and irreversible triumph of Euro-American values.

The essential, structural and real causes of the still lasting instability in the south-east Balkans (including, of course, Serbia, Albania and Bosnia and Herzegovina) represent at the same time prerequisites and unavoidable suppositions of new regional stability of this part of

Europe. Briefly: democracy and its institutionalisation, rule of law, realization and protection of a wide range of human and civil rights and freedoms, individual and collective, ethnic and religious tolerance and co-existence within and out of borders of specific countries, a stronger economic and industrial growth and development. If these fail to appear or if they are slowed down, the region will go through the agony of traumatic and unsuccessful post-communist transition for still a long time. It will also represent, for quite a long time, a latent source of regional instability and potential conflicts. In an opposite case, it is realistic to expect perhaps not a spectacular, but reasonably fast process of integration of these countries and regions in European integrating trends. This would gradually lessen the space and motives for conflicts, as sources of instability in the region.

Macedonia has relatively painlessly, without an external conflict and without a serious inner trauma, gone through a great ordeal of the breakdown of former Yugoslavia - thanks to circumstances, but also thanks to serious and competent contemporary political elite. The construction of the new state and its democratic institutions went more or less successfully, apart from serious economic problems and growing social tensions. There ensued a shift of the governing elites at the elections and in the Parliament, without tensions and threats. The process of integrating into Europe was accelerated and institutionalised. There was an impression that the first, most vulnerable and most dangerous phase of the transition was successfully coming to an end. Suddenly, or maybe not, the "Albanian question" came to surface in a very turbulent way. It turned out that almost one third of Macedonian citizens, mainly ethnic Albanians, were dissatisfied with their factual and constitutional position in the Macedonian society and the Constitution of the Former Yugoslav Republic of Macedonia. The crisis which has already resulted in human victims and announced new thousands of refugees, was stopped, fortunately, at the very verge of an abyss. However, it revealed all porosity, frailty, insufficiency and inefficiency of democratic institutions of the new Macedonian state, and its political elites, both Macedonian and Albanian. It is not only the survival of Macedonia, but also the fate of its communities, that depend on the level of responsibility of these elites, and their readiness to face the burden of historical responsibility for the fates of communities they represent, disregarding political consequences. Successful solution of this problem in Macedonia would have a manifold and very positive influence on the solution of the complicated rebus called Kosovo, it

would help Albania to take care of their compatriots living outside Albania with less prejudices and traumas, and it would certainly facilitate the problem of inner emancipation of Montenegro.

There is no doubt that in all future analyses of understanding the causes of the disintegration of the Yugoslav state, and even more of its bloody and tragic epilogue, **Kosovo** is going to take an important, maybe even central position. This province (in the constitutional sense with significant statehood attributes – legislative, executive and judicial rule) had relatively harmonious inter-ethnic relationships and a relatively steady development in the period of Tito's "democrature", besides the ever sensitive demographic-ethnic complex. In the decade of Milosevic's Cesarean omnipotence, Kosovo was turned into a political and spiritual camp for prisoners (the non-Serb, mainly Albanian population) and their wardens (numerous representatives of Milosevic's regime, which, it is true, and disregarding the demographic defect, had plebiscite support both in Belgrade and in Pristina). Kosovo was, thus, both the fuse and the great last explosion of the Yugoslav state illusion. After all that happened in Kosovo during the last decade, and especially after the spring of 1999, it is improbable to expect that this region is soon going to become an oasis of democracy, rule of law, tolerance, co-existence and economic prosperity. This is why Kosovo is an international protectorate today. And this is why, doubtlessly, it will remain so for a long time. The October elections for the Kosovo Parliament and constitution of new organs of authority reveal a new chapter, bring a chance, but also represent a new, not at all simple challenge, this time for the leaders of the Albanian majority in Kosovo. If they manage to get rid of revenge-seeking and not fall in the trap of same illusions, myths and stereotypes like their Serbian predecessors, Kosovo could have a chance to survive as a sustainable, civilised and well organized community, which passes and observes laws. The burden of proving such a possibility now lies absolutely with the ruling Albanian majority and the new political elite. A democratic, stable, safe, prosperous and, to the possible extent, multi-ethnic Kosovo, could represent the key factor not only for essential pacification of the south-east Balkans, but a major direction towards its permanent safety and stability. It remains to be seen whether, after all that happened, this aim could be easier achieved through the project of independent state of Kosovo or through a still unclear and undefined regional collective arrangement.

Finally – **Montenegro**. In the first years of the Yugoslav breakdown,

the smallest and least developed Yugoslav republic was a faithful, though not always active and passionate, ally and fellow of the Serbian regime and its leader. Distancing from Milosevic's order and projects started in the middle of the 1990s, at first discreetly and silently, and then suddenly and loudly. It entered the phase of painful and complicated political and economic transition with a delay and amid the strife with Milosevic, risking to engage into a conflict with the dictator, but also into serious inner dangers. (The almost Biblical episode of rescue dates back from this period: when hundreds of thousands of Albanians, fleeing from Kosovo, found shelter in Montenegro, at which territory the Yugoslav Army troops were stationed, then commanded by Milosevic! This episode, without precedent in the region, later became the basic value in relationships between Montenegro and its autochthon Albanian minority, but also the state of Albania.) To the international community, which offered significant help to Montenegro, it served more as an additional weapon to weaken Milosevic's order, and less as an authentic example of positive evolutionary step ahead in the region. Such an approach naturally slowed down and obstructed the just commenced processes. At the same time, the following processes were going on: the process of inner emancipation, introspective national and state self-maturing, encircling of the re-found and woken national identity. A new state strategy striving towards complete independence and return to the position of international legal subjectivity was being articulated. Today, Montenegro is neither a member of the federation nor an independent state. It is on the way of transition, with significant elements of democratic infrastructure and institutions, but also with serious deformities, inner resistances and social traumas – not only because of the mentioned episode, but also because of historical experience and tradition, not idealized, but harmonious and tolerant relationships with minority nationalities and religious communities.

Montenegro is in the regional context small, without imperial pretensions and territorial conflicts, led by logic of survival and development and open to integrations, and hence it is rather a point of reconciliation than a source of new instabilities. The cheap, politically and propagandistically abused thesis on Montenegrin "domino effect" has broken to pieces all by itself. The Kosovo tragedy happened despite the fact that Montenegro was not in the federation, violence and war moved to Macedonia even though Montenegro still hasn't proclaimed independence. Hence, Montenegro could represent rather a consequence or a victim of another domino effect (Kosovar,

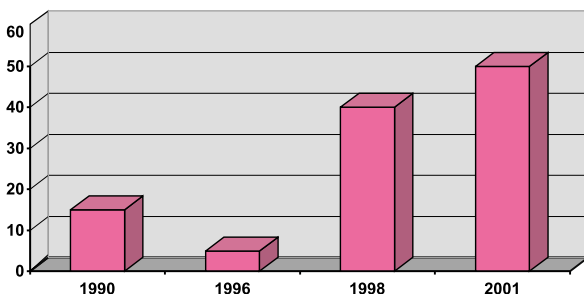
Macedonian, Serbian-Albanian, again!) than be its cause. Even this does not seem too probable!

Naturally, no possibility is to be underestimated. One of them is the potential “Macedonisation” of Montenegro. This phrase refers to a possibility of similar action taken by political forces belonging to the Albanian minority in Montenegro, like the one that happened in Macedonia. From today's perspective, this possibility does not seem realistic. The Albanian minority makes about 7% of the Montenegrin population, and it has been traditionally/historically loyal to the Montenegrin state throughout the 20th century, and has been solidly integrated in the political system.

Its leaders showed enviable temperance in the last decade, probably also because of the fact that this minority has a rather good amount of rights, including the special clause in the electoral law on its participation in the Parliament, schools in Albanian, etc. Some rights, on the other hand, like participation in administrative and judiciary rule are not at a good level, but they represent a topic of regular discussions and searches for solutions. Among Albanians in Montenegro there doesn't seem to be any forces turned towards any kind of political extremity. Furthermore, in all previous electoral cycles in the last three years, the Albanian population secured more mandates for multi-ethnic parties (the DPS, the SDP, the LSCG) than to “their” national parties. Such an example does not exist almost anywhere else in the region.

Still, the attempt to “export” the crisis is not to be excluded. If it really happened at a certain point of time, it would be a significant loss for the democratic order and stability in Montenegro. However, such a possibility, according to the current state of affairs, seems only theoretical.

Road Map to Reform



Graphic representation of reform attempts in Montenegro in the previous decade.

■ Montenegro

I. Illusion about Changes

The overcome socialist order in the former SFR Yugoslavia and the beginning of reforms in the anachronistic and unproductive political and economic system (in the period 1987-1990), caught Montenegro in conditions which could not guarantee any significant social changes. The strong influence of the inherited conservative collectivistic consciousness and absence of reform potentials led to establishment of a populist post-communist government.¹¹⁵ Apart from the fact that the concept of political and economic reforms initiated by the federal authorities¹¹⁶ included Montenegro too, the ranges of proclaimed changes in practice were insignificant and without any serious effects.

The construction of the so-called *new society*¹¹⁷ in Montenegrin political circumstances soon turned into a generally accepted rhetoric without obvious results and with insignificant effects.¹¹⁸ Such state policy very soon became a natural ally to destructive nationalism and anti-reform militaristic demagogy.¹¹⁹ Instead of entering structural changes of the overdue and inefficient political, legal and economic system, this made Montenegro enter the enchanted circle of Milosevic's wars and overall social decadence within the framework of the newly constituted Serbian-Montenegrin state community (FR Yugoslavia, April 1992). The idea of the new society which would enable its citizens a more prosperous life was all of a sudden turned into a tragic political grotesque.

Blocking of economic reforms, distancing from democracy and the

¹¹⁵ At the first post-communist elections held in 1990, the ruling communist party won the reform opposition with a convincing result (over 60% of won mandates).

¹¹⁶ The first reform Yugoslav Government of president Ante Markovic initiated thorough changes of the inherited socialist system, (introduction of the multi-party system, equality of private property, de-monopolisation of industry, etc.), which nominally included all parts of former Yugoslavia.

¹¹⁷ The used euphemism for democratic community and free market.

¹¹⁸ Even three years after the proclaimed reform policy, Montenegro remained a collectivist and monopolistic society, marked with one-party rule and state control over industry. The multi-party system and economic pluralism lingered at the margins of society.

¹¹⁹ After the start of the conflict in former Yugoslavia, Montenegrin authorities took the side of Slobodan Milosevic, and his genocide policy focused on the plan of constituting a greater Serbian state and forced dissolution of Yugoslavia.

idea of free market, meant for Montenegro not just a too expensive waste of time, but also a direct way into the collapse of national economy. Although it belonged to the most undeveloped part of Yugoslav industry (besides Kosovo, Macedonia and Bosnia and Herzegovina), Montenegrin economy managed to provide an average standard of its population and to develop rather good foreign trade potentials. According to official data¹²⁰ from this period, the national product per capita in Montenegro amounted to 2.300\$, with a tendency of double growth until the beginning of 2000. At the same time, Montenegrin export economy sold its main products and services (aluminium, iron, coal, timber, tourism, navigation) to foreign countries or other Yugoslav republics.

In the years preceding the breakdown of SFR Yugoslavia, Montenegro exported goods and services worth about 600 million \$, while the import was slightly bigger and amounted about 700 million \$. In this way, even though undeveloped, Montenegro still managed to provide a bearable foreign trade negative disparity of only 6,26%. Unlike the permanent deficit in dealing with the rest of Yugoslavia, as early as 1982 Montenegro had a positive balance of exchange with foreign countries, realizing a surplus of over 100 million \$. Together with the collapse of Yugoslavia, Montenegro lost business communications with four former Yugoslav republics (Slovenia, Croatia, Bosnia and Herzegovina, Macedonia), experiencing great losses (especially in tourism) and simultaneously reducing economic links to one-sided relationships with Serbia. At the same time, the anti-reform and, politically speaking, the majority in Montenegro, together with Milosevic's Serbia, joined the new federal community consisting of two member states, thus binding its industry to the Serbian market and significantly reducing its own foreign trade resources. Following the Serbian state policy, besides the already advanced process of destructing its own industry, the state in Montenegro was additionally worsened by economic sanctions imposed by the international community,¹²¹ which, along with the earlier loss of the Yugoslav market, led to a dramatic devastation of Montenegrin economy and an enormous decline in the standard of living and the gross national

¹²⁰ Statistic yearbook of the SFRY.

¹²¹ As a part of FR Yugoslavia, between 1992 and 1997 Montenegro suffered strict sanctions of the international community, which were significantly eased only after the political victory of anti-Milosevic forces at presidential elections in October 1997 (victory of M. Djukanovic).

product.

Montenegrin national product halved in comparison to the period before sanctions (from 1.6 billion \$ to about 700 million \$), while the national product per capita drastically decreased (from 2.300\$ to 800\$). Sanctions of the international community froze the industrial growth in Montenegro, inflicting a long-term harm to Montenegrin economy, disabling the process of privatisation and vitally needed reforms, stimulating grey economy and reducing foreign trade to dependence on the Serbian market. To make the things even worse, besides the foreign sanctions, as early as 1995 Montenegro started to suffer from inner trade sanctions imposed by Serbia, which until 1999 escalated to a complete closure of the Serbian border with Montenegro. The flaming of the trade war against Montenegro, as a consequence of changed Montenegrin policy, led to additional losses in Montenegrin industry, which were for this period estimated to over 50 million\$.¹²² The breaking of trade connections between Serbia and Montenegro, accompanied with foreign economic sanctions imposed by the international community, disabled any kind of recovery of Montenegrin industry and additionally affected the stopping of development of market economy, pauperising the population at the same time and impoverishing Montenegrin economic potentials. On the other hand, the Serbian trade blockade forced Montenegrin entrepreneurs to look for alternative markets, which had a strategically positive consequence of renewing economic connections with Italy, Slovenia, Croatia, Kosovo, Albania, Bosnia and Herzegovina and Macedonia.

The wrong choice of the state position and the regional position in circumstances of violent breakdown of Yugoslavia, led Montenegro in an economic sense during the eight long and lost years (1990-1998) to a loss in national product of over 5 billion \$.¹²³ Besides, average salaries decreased more than four times, the unemployment rate increased to around 40%, the national product per capita decreased more than 3 times. When speaking about certain branches of industry, Montenegro suffered enormous damages in the maritime trade fleet, which had been very profitable, bringing an income of over 120 million \$ annually. At the end of 1998 this fleet was reduced to only one fifth of earlier number of ships, and burdened with enormous losses (over 50 million \$). The Montenegrin tourism, as the main export branch of

¹²² Official data.

¹²³ Estimations of independent experts and non-governmental organizations.

industry, which used to have a profit of over 150 million\$ annually, also lost almost 1 billion \$ during the last eight years.

Generally speaking, instead of a reformed economy and real social prosperity, Montenegro has had enormous losses in the previous decade, its economic substance was greatly damaged, and it found itself in a situation much worse than at the moment of the end of communism. All in all, the beginning of real economic reforms caught Montenegro in much worse circumstances than those characteristic of the local industrial structure in 1989. However, unlike the dominant one-party consciousness from those years and minor civil initiatives, contemporary Montenegrin society has been democratically strengthened and certainly more ready for necessary reform changes.¹²⁴ The illusion about the reforms from the end of the 1980s has been turning at the beginning of this new century into an inevitability of real changes and unavoidability of real reformation of this political community delayed in many aspects.

II. Delayed Transition

When speaking about structural social changes, the last ten years in Montenegro have mainly represented a period of difficult survival in circumstances of devastated and monopolized economy and retrograde post-communist political system.¹²⁵ Between 1990-1997, Montenegro represented a classical example of a post-communist society incapable to distance itself from destructive political interests (facade democracy, fictional multi-party system, threatened human rights, etc.).

Only after breaking up with Milosevic's policy (autumn 1997) and establishment of intensive connections with the USA and the European Union, has the process of inherited socio-economic structure slowly started in Montenegro, as well as the creation of conditions for overcoming the phenomenon of the "delayed transition".

¹²⁴ Today, Montenegro is administered by the three-member coalition (the DPS, the SDP, the LSCG), while numerous reformist civil initiatives from the sphere of civil society and non-governmental sector are in a state of permanent increase.

¹²⁵ In the period 1990-1997 the nominal multi-party system in Montenegro functioned as a one-party rule of transformed communists (the DPS), who had a dominant position in the quasi-democratic political order thanks to their property and economic monopoly.

1. Hibernated Privatisation

Keeping the industrial structure from the socialist period and engaging only into administrative transformation of the former social industry¹²⁶ (the so-called managing and property transformation controlled by para-state public funds), with slight privatisation effects (only about 6%), the Montenegrin state policy stimulated the so-called hibernated privatisation in the last decade. Weak ranges in the area of privatisation not only disabled structural economic changes, but also directly influenced the sustaining of the para-democratic political system and thwarting of establishment of an efficient legal state.

2. Facade Democracy

Survival of the mechanism of controlled and collectivist industry, with marginal entrepreneurship initiatives, indubitably expressed itself in the political sphere through sustaining of undemocratic political forms and general manner of rule according to the measure of late communism. Besides the nominal constitutional order which guaranteed democracy and political pluralism, practice in many of its aspects denied the possibility of sincere reform of political institutions, organizations and structures. Slow transition of Montenegrin political society and many years lost in this respect, represented an extreme obstacle for commencement of authentic social reforms.¹²⁷

3. Legal State

Besides the constitutional definition of independent judiciary authorities, we cannot speak about establishment of the rule of law in the last decade in Montenegro, nor is it possible to consider that the prerequisites for breaking up with the communist concept of a party-state have been available. Partly and partial control of the process of election of judges, bad material circumstances in Montenegrin judiciary, significant systemic influence of executive rule regarding legislature, resulted in great problems in providing the system of division of rule, and directly discredited the idea of legal state.¹²⁸

The increase of crime in society as a result of war in the surrounding

¹²⁶ Para-state industry still earns more than 60% of gross national product (GNP).

¹²⁷ Dominant political forces and a great part of the opposition personified for a long time undemocratic party organizations, charismatic methods of leading parties and promotion of practice typical of nationalistic and communist parties.

¹²⁸ Research of public opinion in the last three years has almost constantly pointed to weak confidence of citizens in judiciary rule (between 30% and 35%).

and inner negative relationships, as well as an intensification of the phenomenon of corruption in the work of state and para-state organs and institutions, i.e. inappropriate and weak reply of the judiciary rule to increased forms of numerous untypical but serious criminal offences (war crimes, drug trade, various forms of illegal trade, sex-trafficking, racket, etc.), contributed to discrediting of judiciary authorities and police organs.¹²⁹

In any case, the problem of establishing a legal state represents a priority and the focal point of the reformist rearrangement of social relationships in Montenegro.

4. Potentials

Montenegro has got enough potentials which could provide a productive period of active transitional policy. At the relatively large territory (13.812 square km) regarding the number of inhabitants (680.000), and with obvious natural resources (waters, bauxite, timber, coal, salt) and an attractive combination of continental and maritime landscapes (the length of the coast is 293 km), the frozen industrial growth and low GNP which have characterised Montenegrin transition so far are paradoxical.

A more active and conceptual attitude towards its own potentials represents one of the main conditions for realization of quality reform policy and dynamic overcoming of numerous transitional problems in Montenegro in the period to come.

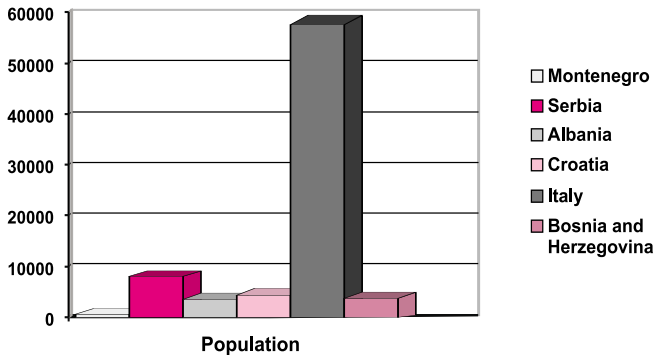
Supplement:

a) The number of inhabitants in Montenegro and the neighbouring countries

No.	Country	Population
1	Montenegro	680.000
2	Serbia (with Kosovo)	10.000.000
3	Albania	3.490.435
4	Croatia	4.282.216
5	Italy	57.634.327
6	Bosnia and Herzegovina	3.835.777

¹²⁹ In an even more radical manner, the police was in the previous decade under direct political control, which disabled the transformation of this significant state organ into a professional public service.

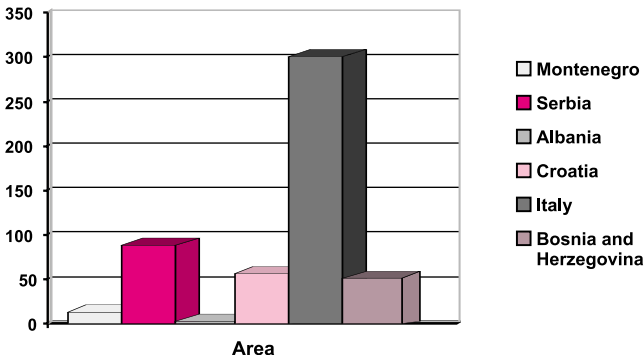
Graphic representation:



b) The area of Montenegro and the neighbouring countries

No.	Country	Area
1	Montenegro	13.812 km2
2	Serbia (with Kosovo)	88.412 km2
3	Albania	28.748 km2
4	Croatia	56.538 km2
5	Italy	301.230 km2
6	Bosnia and Herzegovina	51.129 km2

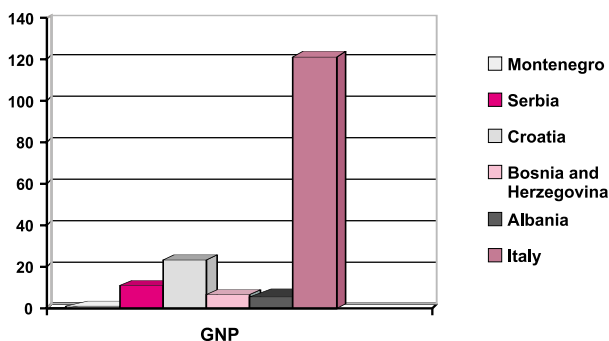
Graphic representation:



c) The GNP and the rate of industrial growth¹³⁰ for Montenegro and the neighbouring countries

No.	Country	GNP bil. \$	GNP - per capita (\$)	Industrial growth
1	Croatia	23,9	5.100	0%
2	Bosnia and Herzegovina	6,3	1.770	5%
3	Serbia	12,0	1.300	0%
4	Albania	5,6	1.650	8%
5	Italy	1.212,0	21.400	1,3%
6	Montenegro	0,900	1.300	5%

Graphic representation:



III. The Way into Reforms

1. The Start of Reforms

Reform changes in Montenegro were initiated only after the breakdown of the one-party rule of the DPS and after distancing of the official Podgorica from Milosevic's destructive greater-Serbian policy (1997/1998). By forming the multi-party coalition,¹³¹ which in its programme focused on the necessity of general social reforms, with considerable

¹³⁰ Data for 2000. (CIA World Fact Book/ official statistic for Montenegro)

¹³¹ The coalition (the DPS, the SDPCG, the NS) that won at the parliamentary elections in May 1998 enabled the beginning of a limited reform process in Montenegro.

support of the international community, adequate changes in various fields were initiated in Montenegro. However, the radical complication of the constitutional crisis (legal state position of Montenegro and political relationships with Serbia ruled by Milosevic) during 1998/99, and the NATO intervention caused by Milosevic's apartheid policy in Kosovo, significantly lessened the effects of the first reformist steps and factually considerably limited the overall reform process.

Besides, objective limitations, weakness and inefficiency in the work of the coalition government, additionally slowed down the proclaimed way into reforms.¹³² However, the years in which the state policy decided to approach democratic values of Western societies in reality represent just the beginning of structural changes in Montenegro.¹³³

2. Economic Reforms

In the three previous years, economic reforms in Montenegro were mainly concentrated on enlivening the process of privatisation, liberalization of foreign trade, free regime of prices, monetary changes and balancing of the budget policy. Although within Montenegrin privatisation there came to the first cases of foreign investments and foreign management (selling of the control package of shares of the only Montenegrin brewery for 25 million DEM, presence of foreign management in the key industry of aluminium in Podgorica, selling of the minority package of shares of the health centre in Igalo to an American pharmaceutical company, etc.), the controversial privatisation contracts, certain scandals in privatisation transactions, as well as the generally slowed down privatisation process, significantly delayed the efficient realization of economic reforms. In this sense, neither the current process of mass voucher privatisation (free distribution of vouchers to over 450.000 citizens), which has been going on without significant problems from the legal-technical point of view and which will lead to a considerable change of property structure in Montenegro,¹³⁴ does not represent a possibility for a soon recovery of

¹³² Exhausting itself in the dangerous conflict with Milosevic's destructive policy, Montenegrin pro-reformist government considerably neglected the need of a more intense attitude towards the changes of the neglected social structure.

¹³³ The period 1998-2001.

¹³⁴ Mass voucher privatisation should provide domination of private property in Montenegro and initiate a more intensive development of the financial market.

national economy.

However, the biggest changes in Montenegro were realized at the level of monetary reforms, because during the last three years Montenegro introduced the German mark as a means of payment, formed its Central Bank and passed new banking legislature. The changes in this area have contributed to stability of prices, decrease of earlier drastic inflation and creation of systemic conditions for a more efficient macroeconomic policy. Finally, the monetary reform is still not completed, because Montenegro is to enter the so-called EURO area, after which the official currency of the European Union is going to become the official currency in Montenegro, too.¹³⁵

Within the price policy in Montenegro, significant steps have been taken regarding the reduction of the control role of the state, so that today less than 2% of prices are under the control¹³⁶ regime. In this way the need for establishment of free market was emphasized. Also, determining the average customs rate to 5%, Montenegro broke up with the earlier non-stimulating federal customs regime and arranged a relatively stimulating customs and foreign trade system.¹³⁷

Finally, the introduction of treasury into state finances and determination for balanced budget policy (which still hasn't disabled a significant budget surplus ¹³⁸), besides a positive attitude towards the need of real-non-inflation sources of financing, faced the Montenegrin state with problems of regular and updated servicing of public consumption, which is a direct consequence of unfavourable current economic trends.

It is quite certain that Montenegrin economic reforms are still at the beginning, that they have been going on in an imbalanced manner and with obvious structural disparities (breakthrough at one level and weaknesses at other ones). This is why the plan of consistent and carefully planned changes in the industrial sphere is one of the key prerequisites for the overall transformation of social structure and creation of a democratic state, legal security and free market.

¹³⁵ From January 1, 2002, EURO will be the official currency in Montenegro.

¹³⁶ Here we mean prices of electric energy and services in the area of telecommunications and water supply.

¹³⁷ Import of over 95% of products is free.

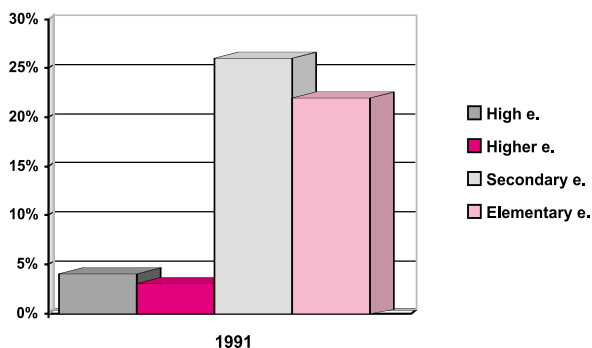
¹³⁸ Montenegrin budget has a permanent deficit of over 50 million DEM.

Supplement:

Macroeconomic figures in 2000	Indicators
1) Gross National Product	
GNP	900 million \$
GNP - per capita	1.300 \$
GNP – the rate of growth	5%
2) Branches of industry	
Agriculture (percent in the GDP)	20%
Industry (percent in the GDP)	50%
Services (percent in the GDP)	30%
Agriculture – the rate of growth	1%
Industry – the rate of growth	0%
Services – the rate of growth	40%
Annual production of electric energy	2,6 billion kwh
Annual consumption of electric energy	3,3 billion kwh
Investments	32 million DEM
3) Foreign trade relationships	
Export	250 million \$
Import	330 million \$
Main export products	services, metal, timber
Main import products	Oil, food, textile
Foreign trade surplus	80 million \$
Main export partners	Switzerland, Serbia, Italy
Main import partners	Serbia, Slovenia, Italy
4) Foreign debt	
Total foreign debt	305 million \$
Foreign debt per capita	500 \$
5) Public consumption	
Public consumption (percent in the GNP)	55%
State budget (percent in the GNP)	45%
6) Monetary policy	
Official currency	DEM
Rate of the official currency	1 DM=2,2 \$
Monetary mass	157 million DEM
Credit mass	45 million DEM
Inflation	19%
7) Employment	
The number of the employed	114.749
The number of the unemployed	84.700
The rate of unemployment	40%
The rate of growth of employment	0,1%

8) Social policy	
The number of socially supported families	7.950
The number of users of subventions for people incapable of taking care of themselves	4.598
Displaced persons	60.330
9) Wages and pensions	
Average salary	200 DEM
Average pension	188 DEM
The number of pensioner	84.782
10) Education	
High education	23.154 (5,0%)
Higher education	17.559 (3,8%)
Secondary education	160.735 (35%)
Elementary school	135.545 (29,5%)
No school diploma	40.724 (8,9%)
1-7 grades of elementary school	75.062 (16,3%)
The number of illiterate over 10 years of age	30.443 (5,9%)

Graphic representation of the educational structure:



3. Legal reforms

One of the greatest obstacles for establishment of an authentic democratic society is the absence of efficient mechanisms of legal protection. Independent judiciary rule, competent and uncorrupted state administration, professional police, well-organised and considerably independent local administration, as well as a high quality legislative framework for carrying out of structural social changes, represent an

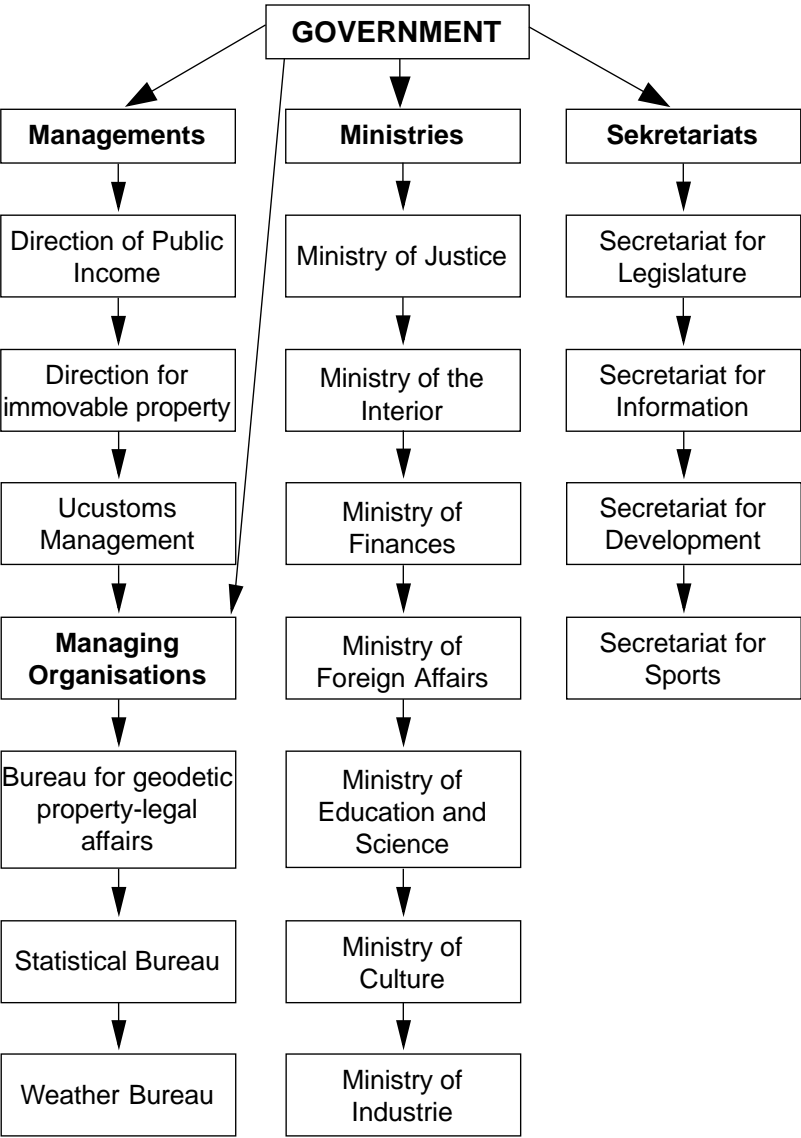
irreplaceable condition for a successful social transformation of each post-communist state community. All these relevant aspects of legal reform have for years been the weakest link in the Montenegrin reform process. Continual delaying of essential changes in the domains of functioning of legal-administrative authorities greatly diminishes the reached results in other social domains and at the same time significantly slows down the realization of complete reforms.

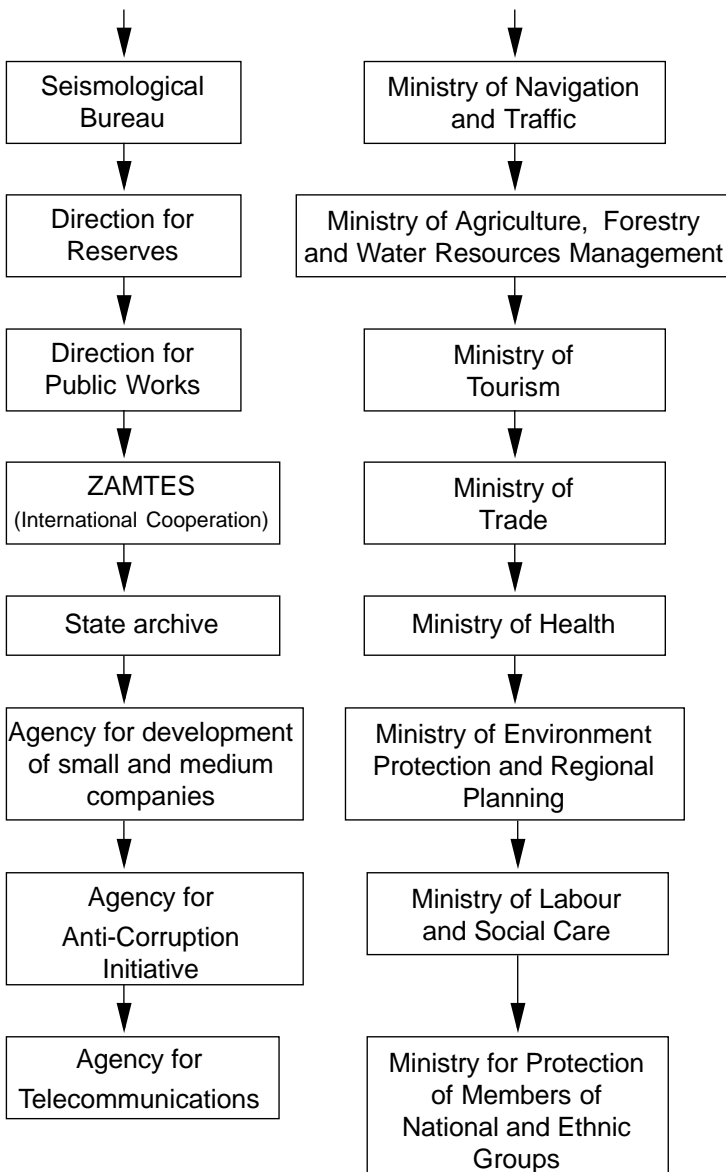
Summarizing the state in legal and administrative institutions and the organization of public rule in Montenegro, it is possible to state the following:

- Besides the constitutional principle of division of rule, positive legislature and inherited political practice greatly limit the ranges of the nominal independence of legislative authorities (judiciary and attorney organs);
- The Constitutional Court, as a respectable state organ protecting the constitutionalism and legality of legal acts in the previous practice has not represented a significant factor in defence and affirmation of those constitutional solutions which are fully compatible with the idea of democracy, free market and development of civil society;
- The police has greatly functioned as an organ dependent on political authorities, with insufficient professional credibility and failing confidence with the widest public;
- State administration symbolizes an obtuse and inefficient centralized management, with all failures of the former socialist system, a considerable number of employed civil servants (about 12% of the employed financed from the state budget) and a net of managing institutions (33) controlled by the Republic Government;
- Local self-management has extremely reduced capacities due to the fact that the organization of rule in Montenegro is centralist to a great extent, it is dominantly influenced by political parties, which excludes a quality communication between citizens and local authorities, and is greatly burdened by the inefficient and anachronistic work of local bureaucracy and the number of its members (about 2.000 employed);

Supplement (illustration of hypertrophied state administration):

The Scheme of State Administration in Montenegro





4. Political Reforms

Besides the fact that during the last three years significant changes at the general political level¹³⁹ happened in Montenegro, many issues relevant for establishment of an authentic democratic community are still open. Contemporary Montenegrin political system is characterised by a series of limitations and obstacles, which represents a sufficient reason for reforming the actual political structure. The mentioned issues include the following:

4.1. Constitutional-Legal Framework

The unsettled (conflicting) state position of Montenegro and different concepts of political rule at the federal (councillor government) and the republic levels (parliamentary government), i.e. the unclear framework for development of constitutional democracy in Montenegro, represent a great obstacle for creation of a rounded and consistent reform atmosphere. This is the basic obstacle for strategic defining of reforms in Montenegro.

4.2. "Partyto-cracy"

The communist heritage, the long duration of the one-party political model in circumstances of unfinished transition, and finally the formation of dominant multiparty structures in several previous years, led to the establishment of a typical party-cratic democracy in which the central point belongs to political parties. Such a concept of rule greatly marginalised the positions of civil society and a citizen as a source of political rule. At the same time, the valid electoral system counter-constitutionally superimposed¹⁴⁰ the rule of parties on the principle of ignoring the voters' will to a certain extent. Furthermore, the anachronistic law on association of citizens¹⁴¹ is still in power in Montenegro. This law partly treats the principles of political organizing, which establishes the activities and financing of parties in an overcome way unacceptable for modern societies.

¹³⁹ Removal from the greater-Serbian state and nationalistic policy, cooperation with Euro-Atlantic states, the beginning of social reforms and rearrangement of one-party political system.

¹⁴⁰ Although the Constitution of the Republic of Montenegro guarantees independence and irrevocability of the deputy function, the Constitutional Court enabled political parties with its decision to change and bring new deputies disregarding the will of citizens.

¹⁴¹ From 1990.

4.3. Human Rights

The last decade in Montenegro was marked with numerous examples of violation of human rights. Although the legal order offered possibilities for protection of the greatest part of internationally recognized human rights, the court practice¹⁴² is still very scarce in this area, while the overall social climate is often controversial. Disregarding the fact that significant steps ahead in this domain were made in Montenegro in the last few years in comparison to the earlier period,¹⁴³ it is still not possible to talk about a realized degree of human rights according to the principles of generally accepted international standards. However, the fact that the ruling Montenegrin policy in many aspects corresponds to the system of protection of basic human rights and freedoms is quite encouraging.

5. Civil Society

During the greatest part of the 1990s, civil initiatives and independent media in Montenegro had a marginal social status with no possibilities to take significant part in reforms of the anachronistic social structure. Still, the breakdown of Milosevic's policy and the defeat of his followers, as well as the commencement of the process of transformation of Montenegrin society in 1998, conditioned an explosion of civil initiatives and various media houses. Thanks to the presence of numerous international non-governmental organizations and donors, for a relatively short period of time there came to a recovery and stronger functioning of the most relevant segments of civil society in Montenegro.

Local and foreign non-governmental organizations, private press and electronic media, as well as various voluntary activities of individual and general importance, have contributed to a beginning of real transition in the domain of civil relationships and private civil initiatives. This has greatly enabled the commencement of the transition of the overcome political system into a democratic political and economic order. With changes of legal regulations in a series of domains significant for the development of civil society, and especially with passing the *Law on Non-Governmental Organizations* (July 1999), in Montenegro started a process of construction of a positive legal

¹⁴² Capacity of the Constitutional Court.

¹⁴³ Regarding the respect of human rights, Montenegro is still one of the positive examples in the region.

framework, which should provide a minimum of stimulation for forming institutions of civil society in transitory social circumstances.

The initial steps ahead in the domain of civil society in Montenegro offer hope for the possibility of permanent establishment of serious civil institutions and quality initiatives, which will not be able to be ignored by state and political structures, and which will decisively contribute to constitution of perspective Montenegrin democracy with the force of positive example. In this sense, the following elements will be of supreme significance for development of civil society in Montenegro: further development of voluntary civil actions and initiatives, development of professional private media, establishment of a greater number of non-governmental organizations in all domains usually in capacity of state organs, creation of legal framework which will lead to a productive social connection between the profitable (commercial) and the non-governmental sector, as well as the development of partner projects between the state and the institutions of civil society.

The speed of constituting a respectable democratic order in Montenegro, as well as providing of necessary conditions for integration of Montenegrin society into the European political structure, will greatly depend on the development of the civil sector.¹⁴⁴ In this context the greatest responsibility lies on the Government of the Republic of Montenegro,¹⁴⁵ which is obliged to provide a productive atmosphere for strengthening of civil society institutions, as well as to stimulate with direct support the activities of the non-governmental sector irreplaceable in the process of forming an open civil community and a democratic state.

IV. International Support to Reforms

Introduction

Since 1998 Montenegro has started to enjoy considerable help of the international community (financial, in products, professional, etc.),

¹⁴⁴ Thanks to stimulating regulations, over 1.200 non-governmental organizations were registered in Montenegro, out of which almost 100 are foreign.

¹⁴⁵ Unlike the period 1998-2000, in 2001 the Government showed a more negative attitude towards the civil sector, especially in the area of financial support and obvious disagreement (and silent rejection) with reform laws and initiatives proposed by numerous non-governmental organizations.

without which the recovery of national economy would be impossible, and without which there would be no significant steps ahead at the level of democracy and structural reforms. The fact that during 1999/2000 Montenegro received the greatest help given by the USA to a foreign country (per capita), excluding Israel, tells enough about the degree of this help.

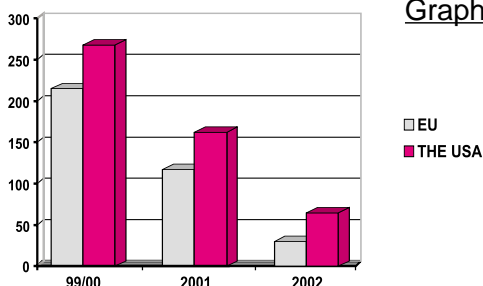
Besides the direct financial and humanitarian help by the USA and the EU governments, numerous international and national non-governmental organizations considerably supported the establishment of political stability and initial development of democratic and entrepreneur initiatives. All positive steps ahead which ensued in Montenegro in the last few years could not be possible without support of the international community and various donating lines which had a decisive influence on the economic and political stability and initiation of reform changes.

In the period 1998-2001 Montenegro received about 800 million DEM of international help, which enabled stable functioning of state rule, servicing of budget deficits and financial support to a series of projects of reform importance.

Supplement no. 1:

I Help by the EU and the SAD to Montenegro in million DEM

Donor	1999 – 2000	2001	2002
European Union	215,4	117,6	29,4 + humanitarian help
The USA	268,9	162,0	89,0
Total:	485,3	279,6	118,4



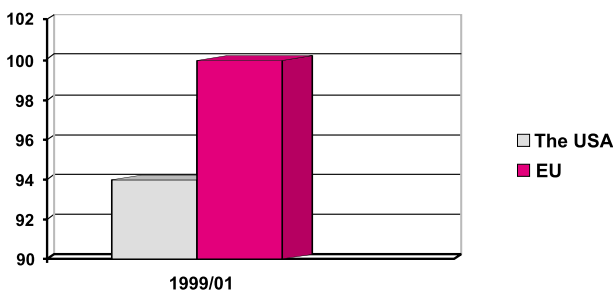
Graphic representation:

Supplement no. 2:

II Structure and amount of help in the period 1999 - 2001¹⁴⁶

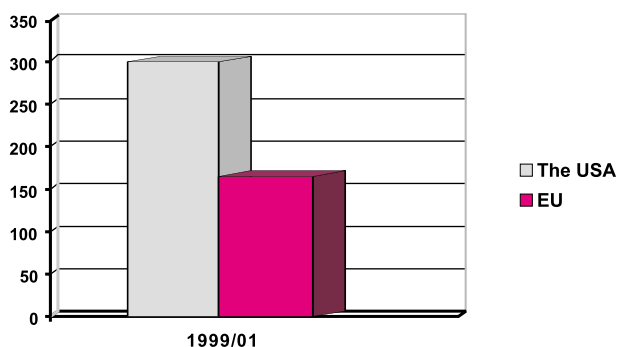
No.	The Structure of Help	Amount in Million DEM	%
	Humanitarian help	103,6	13,5%
1	European Union	68,6	
2	The USA (USAID – food for peace)	35,0	
	Infrastructure	97,0	12,7%
1	European Union (renewal+education)	97,0	
	Re-structuring of Industry	54,1	7,1%
1	The USA (USAID – industry+private sector)	54,1	
	Democracy	43,2	5,6%
1	The USA (USAID)	40,2	
2	European Union (media)	3,0	
	Finansijska podrška	467,0	61,1%
1	The USA (various help)	255,8	
2	The USA (agricultural products)	45,8	
3	European Union (special help)	78,4	
4	European Union (food help)	61,5	
5	European Union (for refugees)	25,5	
	Total Support	764,9	100%

a) Graphic representation of support to reform projects:



¹⁴⁶ In the period 1999-2000 Montenegro received financial help for stimulation of reforms from the American Government and the Western governments worth almost 200 million DEM. At the same time, the Euro-Atlantic financial support to the state budget, social policy and refugees amounted to over 450 million DEM.

b) Graphic representation of support to the state budget

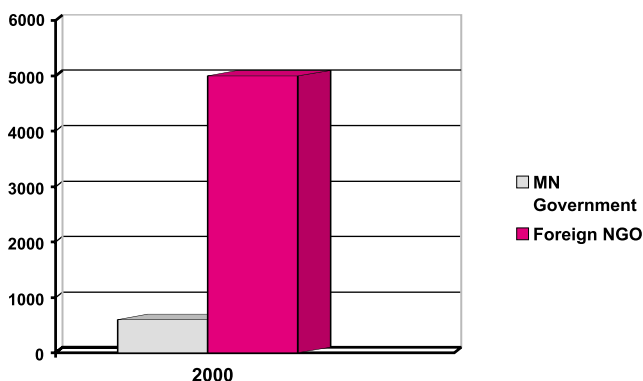


Supplement no. 3:

III. International governmental and non-governmental organizations with the function of key donors and bearers of various forms of support to reforms in Montenegro:

No.	The Name of the Organisation
1	OSI (Open Society Institute)
2	USAID/OTI
3	NDI
4	Charles Stewart Mott Fondacija
5	Norwegian National Support
6	UNICEF
7	World Vision
8	ABA/CEELI
9	Danish council for refugees
10	Charity Know How
11	Lan O' Lakes
12	Fridrih Ebert
13	Konrad Adenauer
14	Nansen Dialogue Centre

Graphic representation of support to civil society in 2000:



Stability Pact

Joining the Stability Pact for South-East Europe, Montenegro considerably improved the chances of intensifying the reform processes and stimulating the most important structure changes. In this respect the Work Table II is particularly important, i.e. the “Investment Agreement” whose implementation has already started, and which includes:

Phase I of the Agreement:

- policy of direct foreign investments;
- strategy of promotion and programmes of direct foreign investments;
- development of small and medium companies;
- privatization;
- reform of the fiscal and tax systems;
- bribe and corruption;
- cooperative management;
- accounting regime and practice and development of financial sector;

Phase II of the Agreement:

- development of specific recommendations for reform of politics for countries and designing of regional initiatives in the domain of politics;

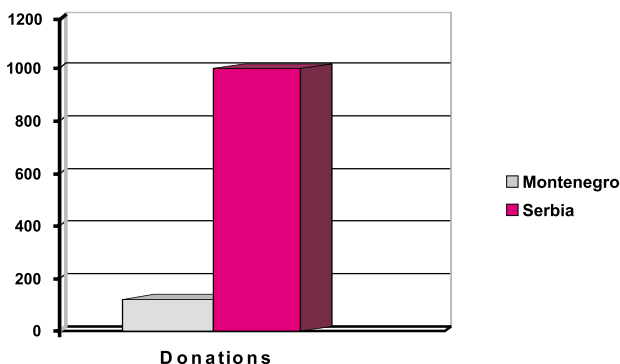
Phase III of the Agreement:

- monitoring of the progress in implementation of policies, improvement of investing conditions and realization of investments in South-East Europe.

In any case, realisation of the Stability Pact is of special significance for development projects in Montenegro and a successful completion of all aspects of reforms. Support to structural changes in the financial and consulting portfolio of the Stability Pact is of vital importance for an efficient transformation of Montenegrin society.

Reform Donations

At the recently held donor conference in Brussels¹⁴⁷ Montenegro was promised about 120 million \$ for infrastructural and reform projects, which represents a high share of 10% of total means approved for the



FRY (Serbia/Montenegro).

Summary

Evaluating the support of the international community, we can state the following relevant aspects:

- financial and expert support of international organizations and governments of western countries had a decisive significance for stabilization of economic and political circumstances in Montenegro and for reviving of reforms;

¹⁴⁷ The Conference was held in Brussels on 29 June 2001.

- material support to the non-governmental and private media sectors was decisive, both regarding the survival of a series of projects and regarding the development of institutions and organisations of civil society;
- the amount of invested money and spent energy in reform programmes is still not proportionate to results, which is a consequence of inconsistent approaches, inexperienced foreign councillors and frequent absence of a quality link between local government (non-government) partners and foreign organizations;
- the greatest problems regarding foreign support were obvious in the area of defining reform legislature with frequent examples of imposing inappropriate foreign normative solutions, which in practice leads to inapplicability of legal norms or to denial of formal nature of the local legal system;
- a great failure in the work of international organisations can be observed in the insufficient cooperation with the civil sector regarding stimulation and development of reforms, i.e. in the uncritical and incompetent forms of cooperation with the government representatives;
- finally, a long-term presence of Western governments and international non-governmental organisations has got a strategic significance for a successful completion of the transition process in Montenegro and for realization of sustainable and elementary successful reforms.

V. Consistent Reforms

The reform policy in Montenegro in the years to come has to focus on tight cooperation of its inner potentials and international institutions and organisations. Only an open and competent state policy and an integrative concept of civil society can provide quality cooperation with the international factor and create an atmosphere for a successful realization of commenced reforms.

Bearing in mind the current circumstances, ranges of actual changes present limitations and failures, as well as the emphasized sluggishness

of the reform process, it is possible to consider the creation of a

No.	Content:
1	Definition of the national constitutional-legal framework
2	Regulation of the status of political parties
3	Construction of electoral legislature ruled not only by political parties
4	Introduction of the institution of Ombudsmans
5	Institutionalisation of parliamentary democracy

consistent reform framework through priority implementation of the

No.	Content:
1	Completion of the process of privatisation of para-state industry
2	Establishment of financial market (stock-exchange activities)
3	Completion of the monetary reform (the EURO system)
4	Creation of a stable and liberal business framework for companies, banks and foreign investments
5	Re-arrangement of off-shore business
6	Modern arrangement of the regime of concessions and free trade zones
7	Abolishment and control of inherited monopolies
8	Further liberalization of the currency, customs and foreign trade regimes
9	Establishment of a stimulating and comparative tax system
10	Protection of economic interests of consumers
11	Reduction of public consumption

following key ideas and transition projects:

No.	Content:
1	Modernisation, staff renewal and implementation of conditions for independent work of legislative authorities (judiciary and attorney organs)
2	Transformation of police into a professional service
3	Reduction, staff renewal and efficient organization of managing authorities
4	Decentralization of state rule and establishment of local self-government
5	Adopting of anti-corruption regulations
6	Taxing of monopolistic and privileged extra-profit
7	Partial restitution
8	Re-definition of the rule on basic property relationships
9	Market adaptation of obligation norms
10	Arrangement and protection of intellectual property
11	Changes of criminal legislative

1. Political Reforms

No.	Content:
1	Cooperation with international institutions and organizations
2	Support to reform processes through legislative initiatives and public campaigns
3	Critical control of political structures and organizations
4	Stimulating systemic framework
5	Media freedoms

2. Economic Reforms

3. Legal Reforms

4. Civil Society

Let us conclude: all key aspects of reforms in Montenegro have to be regarded as a part of a single process, which at the same time implicitly includes removal of current disparities in implementation of reform solutions and creation of a strategic approach to structural changes of Montenegrin society. A consistent approach, unified initiatives of the non-governmental and the governmental sectors, permanent cooperation of Montenegro with regional and international institutions and organizations, open and critically positioned discourse of reforms, represent the only right choice in the further implementation of policy, whose final balance should be an establishment of a prosperous state, stable society, solid democracy and propulsive market economy.

SERBIA: COUNTRY REPORT ON THE STATE FOR DEMOCRACY AND A ROADMAP FOR REFORM

Belgrade Center for Human Rights

A year after the October 2000 democratic changes, the political landscape of Serbia has been altered considerably when viewed against the earlier period of the rule of Slobodan Milosevic, politically pluralist in name but in reality authoritarian, manipulative, populist and increasingly repressive as it neared its end.

The international position of the Federal Republic of Yugoslavia, made up of Serbia and its tiny partner Montenegro, experienced the most dramatic change: after years of isolation, followed by an almost all-out confrontation with the democratic segment of the international community, the country has been brought back into the fold of international organisations and has renewed diplomatic ties with all the leading powers.

However, is characteristic of both the period of isolation and that which followed it that the country has gradually been brought down to its real size and that the illusions about the “central role in the Balkans,” the pivotal geo-strategic position of the country and the consequent need to afford it special treatment in the international community have given way to realistic assessments and conclusions that Yugoslavia is a relatively small and economically neglected country with its place in south-eastern Europe and a European Union perspective, but one which cannot count on inheriting the special status enjoyed by the former Yugoslavia, which derived its strategic significance not so much from its might as from the skilful policy of balancing between the two opposed military and political blocs. At the same time, this return to reality and the diminished possibility of employing foreign policy skills to make up for political and economic shortcomings demand that the affirmation of the country take place through comprehensive political and economic reforms leading to the creation of a stable civic society and an economy capable of surviving the tough conditions on the increasingly integrated and demanding European market.

The achievements of the past year's time in this area should not be sneezed at. The first of them took place at the ballot boxes, albeit with the help of mass protests staged after the election victory was disputed. Contrary to many disaster scenarios, the democratic turn took place in a manner closer to the central European Czech model than a Balkan

- Romanian one. This capital should be invested in the continuation of the reform process, in which adherence to democratic values and the rule of law should take place in parallel with a radical break with the past.

Important political capital is also derived from the fact that the October 2000 victory was achieved on the basis of a unification of all opposition forces. Although the consensus was more one based on Unity Against (Milosevic) than Unity For (reforms), it nevertheless represents an accomplishment which must be protected and preserved until all the essential reforms are completed.

However, a negative aspect of the October change is that in the critical days which followed it, in order to ensure the victory of the democratic forces, certain compromises and deals had to be struck with a segment of Milosevic's apparatus of repression, the army and police - this is a political burden for the new regime and is hardly appropriate to genuinely democratic societies. What is even worse, the alliances made at the time are still being used in political duelling within the democratic coalition - this is a serious weakness of the new democratic authorities and serves to inhibit reforms in the police and armed forces.

One of the characteristics of the democratic revolution is the key, some say even crucial, role of the non-governmental sector. During the years marked by repression and a disunited opposition, the non-governmental sector was perhaps the only bright light in Serbia's political life. This was noticed by the international community, notably France, who directed much of their support for the democratic forces following the NATO intervention towards the non-governmental sector, contributing to an increase in political activism and, especially among young people, awakening the opposition from its stupor and mobilising it to join forces and to act together. Although the role of the non-governmental sector in the democratic changes was also important in some other countries - for example in the processes of dismantling the Meciar government in Slovakia and Tudjman's regime in Croatia - the role of that sector in Serbia is in many ways exceptional in nature, because even after the democratic turn in October, most of the leading reformist figures and forces in the government (especially the economy and foreign policy departments) come from the non-governmental sector. This achievement needs to be nurtured, as preserving the vitality and influence of the non-governmental sector is among the key catalysts in the process of establishing a civic society in Serbia. Some Yugoslav and foreign analysts (for example the International Crisis Group) say the country's most powerful pro-reform force is the G17plus

organisation, which rallies economic and political experts, and that the influence of organisations dealing with the protection and promotion of human rights is also strong. (The Belgrade Centre for Human Rights has come out with a comprehensive draft of a new constitution, while the Yugoslav Jurists' Committee for Human Rights has launched an initiative for changing the Law on the Army of Yugoslavia and reducing compulsory military service and shortening the duration of civilian army service to an equal term). This lasting activism and commitment by the non-governmental sector most probably led some influential international organisations, notably the International Crisis Group, to recommend to the western governments that in their support to the reforms in the FRY they should rely on the non-governmental sector much more than on political parties.

But the activities of the non-governmental sector need to be combined with a strengthening of parliamentarianism - in a democratic system the parliament must be the central arena where political parties vie for power and the directions of a country's development are defined. Some non-governmental organisations have clearly come to realise this. The G17plus and some others are considering reshaping themselves into political parties, but this could be a double-edged sword for them - it might not strengthen the parliamentary sector sufficiently but at the same time it could weaken and compromise the non-governmental sector, which is still needed as an alternative to the traditional forms of political life.

Another positive accomplishment of the past year's time is certainly an element which is difficult to measure but is nevertheless still indirectly deducible from the manner in which the Serbian public has been reacting to certain important political manifestations and events. It is the rise in democratic consciousness, a shedding of the fear of repression and assumption of a role of active citizens. It might best be seen in the rapid marginalisation of the once sacrosanct absolutist leader Slobodan Milosevic (which took place even before his arrest, in fact immediately after his defeat at the presidential election), and the results of the December 2000 parliamentary vote in Serbia, in which the electorate overwhelmingly rejected the political option represented by his party or their even more extremist allies, such as the Radicals. This speedy fall into obscurity can of course also be interpreted as (voters) shedding personal responsibility for the lengthy survival of Milosevic's regime. But in any case a tendency to favour authoritarian leaders and champion the "defence of the dignity of the country" are no longer factors capable of rallying a large number of Serbian citizens.

The indifference of most people in Serbia to Milosevic's subsequent arrest and handover to the War Crimes Tribunal at the Hague, and the absence of major protests thereafter are also illustrations of the way in which the Serbian society has been maturing politically.

Another positive aspect is the fact that the Serbian public has not been exhibiting uncritical support for the new political leaders or a tendency to create new leaders, this time democratic ones. Amidst the euphoria created during Milosevic's overthrow last year, it initially appeared as if the public might elevate his replacement Vojislav Kostunica to a similar status, as his popularity ratings were extremely high (over 70%), based on public perceptions of his personal modesty, integrity, incorruptibility, patriotism, anti-communism and adherence to the Serbian Orthodox Church. But with the passage of time this support dropped to a more realistic level, although president Kostunica remains the most popular political figure, albeit with ratings closer to 40%, as a result of a cooling of emotions among the people and a return to coping with every-day problems, even more acute in the current economic transition phase, but also of certain shortcomings of Kostunica, such as insufficient resolve to radicalise the drive to eliminate the negative heritage burdening society.

In what is another positive indicator for the status of democracy, the support of the public has been shifting towards "technocrats" - people characterised by a pro-European orientation and unreserved commitment to economic and political reform and full co-operation with the international community, including the Tribunal at the Hague, such as the federal deputy prime minister in charge of economic reforms and foreign economic co-operation, Miroljub Labus, federal foreign minister Goran Svilanovic, Serbian minister of finance Bozidar Djelic, National Bank of Yugoslavia governor Mladjan Dinkic and others. These are definitely not charismatic figures, at least in the way charisma is perceived in the Balkans - they are genuine professionals and experts in their fields who are open to the world and keep a certain distance from party politics (as yet another manifestation of the importance of the non-governmental sector in Serbian society). Another illustration of the new political maturity in Serbia is the majority rejection of the idea of restoring the monarchy, in spite of the flirting of some political forces with it and even the openly pro-monarchy platforms of some parties in the ruling coalition (the Nova Srbija, the DHSS, and even Kostunica's DSS), as well as the growing efforts of the Karadjordjevic family and its head, Prince Aleksandar, to promote and present himself as "Serbia's new host".

The progress made in the field of ethnic relations and the higher level of ethnic tolerance achieved are yet more features of the positive post-October record. The situation differs enormously from that in the past ten years, when ethnic tensions ran high and some national minorities, notably the Kosovo Albanians, but also ethnic Hungarians and Croats in Vojvodina and Bosniaks in Sandzak, were exposed to repression and pressures aimed at driving them into migrating away from their homes. The media were dominated by ethnic intolerance and often bigotry against minorities, which were described as unreliable and sometimes even hostile elements. The autonomy of the provinces, Vojvodina with its significant national minority population and Kosovo with an overwhelming Albanian majority, had been reduced to a formal level in the case of Vojvodina, and suspended altogether in the case of Kosovo, while some regions with considerable national minority populations had been split among Serbian-dominated administrative entities. Finally, the status of some "new" minorities created as a result of the disintegration of the former Yugoslavia, such as the ethnic Croats and ethnic Bosniaks, had not been regulated, or was made conditional on the conclusion of bilateral agreements with Croatia and Bosnia and the regulation of the status of the Serbs living there. It is also true, however, that the regime never went as far as banning the activities of the national minorities' political parties, such as those representing the ethnic Hungarians, Bosniaks, Croats or Bulgarians, which took part in elections and participated in power at local level.

Already in its election campaign, the Democratic Opposition of Serbia (DOS) included some minority parties (ethnic Hungarian and Bosniak) which were consequently part of the victorious coalition. Practically all national minority parties backed the DOS. After the formation of the new authorities, their representatives took up important government posts – the head of the leading ethnic Hungarian party became a deputy prime minister in the Serbian government, while the president of a Sandzak Bosniak party is now the federal minister for national minorities. In what is another step in the right direction, a number of diplomatic representatives of the FRY abroad, including some ambassadors, are members of other ex-Yugoslav peoples and national minorities.

Another important step towards improving the position of national minorities has been taken on the legislative plane - the draft of a new law on national minorities has been prepared, in co-operation with the

Council of Europe and the OSCE. International experts say the bill offers a high standard of guarantees for the protection of the rights and status of minorities, as well as a foundation for local self-administration and cultural autonomy for the national minorities. But it must be stressed that some influential DOS members, notably the DSS, are still none too happy about the idea of decentralisation and local self-government, and especially autonomies, and this can slow down progress in the area of upgrading the position of the national minorities.

The growing tolerance in Serbia's society of other minority and alternative groups, not just the recognised national minorities, is also manifested by the increased understanding for and less exclusivist attitude towards other ethnic and minority groups, such as the Romanies, non-Orthodox religious communities, sexual minorities, feminist organisations and some others. But verbal and even physical violence which some minorities (Romanies) have suffered at the hands of right-wing extremists and the existing aggressive attitude towards "religious sects" indicate that the level of tolerance that has been achieved is still not high enough and that the suppression of ethnic, racial and religious prejudice must be the subject of a constant and vigorous campaign.

The efficient and speedy elimination of the international isolation and promotion of bilateral relations with neighbours and the Western countries, as well as the re-integration into international organisations, are without a doubt among the brightest achievements of the new democratic government. But some of the credit must also go to the hand of freindship which has been extended by the international community, in particular the leading Western countries, which invested their political capital in the organisation of the democratic opposition and promotion of changes.

The gates to re-admission into international organisations were opened by the simple act of the new authorities of relinquishing the hitherto insistence on continuity with the former state, the SFRY, and acceptance of the status of a successor with rights equal to those of all the other ex-Yugoslav states. Although the act itself was simple, the new authorities, including president Kostunica, must be praised for performing it without delay, even bypassing a parliamentary procedure which would have slowed down the process of applying for re-admission to the United Nations.

But it also needs to be pointed out that Yugoslavia was re-integrated

very quickly in those organisations where membership does not require special legislative or other reforms, but only acceptance of their basic documents, like the UN (accepting the Charter) and the OSCE (the Final Act, the Paris Charter and the other documents), and which are universal or pan-European in character, anyway. Membership in the UN ensured that admission to its specialised agencies and similar organisations would take place without major problems (UNESCO, UNICEF, the Interpol, others). Yugoslavia also relatively quickly joined other regional initiatives, such as the Pact for Stability of South-Eastern Europe, the SECI, and the Central European Initiative – where its place had been reserved in advance, pending democratic changes. In fact, some of those organisations - the Pact for Stability and the SECI - were set up with the intention of exerting pressure for political changes in Yugoslavia and underscoring the isolated nature of the Milosevic regime on the regional plane, where he had been counting on certain Balkan alliances, especially in the initial phase of his rule (Greece, Romania, and even Bulgaria).

But admission to those international organisations with stricter membership conditions - legislative changes - has still not been realised. The most important is the Council of Europe, where Yugoslavia has been granted special guest status in the parliamentary assembly (enjoyed by the former Yugoslavia in 1991), but where full membership necessitates a number of reforms, in particular in the judiciary, the media and human and minority rights legislation. The duration of this process remains uncertain, but if the reforms or the legislative process are not slowed down, for example by the unresolved problem of the Serbia-Montenegro relations, admission to the Council of Europe could realistically be expected to take place by the end of 2002, which is not an excessively long period of waiting when compared with those of some of the other countries in transition, especially other former Yugoslav states, like Croatia, which became a member in 1995, four years after its independence, while Bosnia-Herzegovina is in a situation similar to that of the FRY, as its admission should be expected next year - a full ten years after independence (although it should be noted that the delay was caused by reasons forced upon Bosnia-Herzegovina, to wit the 1992-95 war).

In the case of those organisations with the strictest conditions for membership, like the European Union, whose demands are both economic (economic stability, a balanced budget, a relatively high GNP, monetary stability) and political (fully-developed democratic institutions, harmonising legislation with the “achievements of the Union,” the

resolution of all outstanding disputes with neighbours), then the admission to that organisation is a medium-term (5-10 year) or even longer-term prospect, and depends not just on the pace and success of the reforms in the FRY, but also on the Union's expansion strategy and its approach to the south-eastern European region as a whole. The EU recently began talks on an agreement on stabilisation and association with the FRY, already signed with Macedonia and Croatia. The FRY is therefore at the beginning of a process which could lead to an associate status and candidacy for membership within two years. Once hopelessly lagging behind the other countries of the region in the race towards the EU, Yugoslavia is in the opinion of analysts now on its way to reducing the gap to two or three years behind Croatia.

On the bilateral plane, the new authorities have made a giant step in a rapid re-establishment of ties with the leading Western countries, where we also need to stress the reciprocal efforts of the other side. It is nevertheless important that the Federal Government boldly and unhesitatingly initiated the restoration of ties with the leading NATO member-countries - the United States, Germany, Great Britain and France - which had been broken off by the former regime during the NATO intervention, while intentionally disregarding the fact that the formal verdicts against leading Western political and military figures issued in stage-managed trials during the intervention were still effective. In any case, the new authorities encountered from the very start the full readiness of the West to restore ties and took full advantage of their chance, albeit with varying gradation of the closeness in relations with some of the countries. There was noticeable reluctance, at least in some circles, to renew close ties with the US and Britain, and partly also Germany, while France came in for more benevolent treatment, given the traditional friendship (also with some other Western countries, like Norway, Switzerland and Italy). Some even stressed that Yugoslavia was returning to the international community with dignity and its head held high, and high-ranking figures even called for maintaining balanced relations with Washington and with Moscow - somewhat reminiscent of the late president Tito's non-alignment policy - but this approach soon proved itself to be an anachronism in the uni-polar world of today. Viewed objectively, although the animosity towards the leading NATO countries could not be expected to vanish entirely barely three years after the bombings, it is nevertheless no longer a serious political factor, and is targeted more at NATO as an organisation than its individual member-countries. If the West were to continue its energetic economic and political support for the reforms in the FRY, and if this were to

result in increased prosperity in the country, it is possible that the attitude towards the leading Western countries could evolve in a manner similar to relations between Germany and the USA following World War Two, when the two countries took a relatively short time to progress from bitter opponents in war to firm allies.

An indication of this course of development of the relations between Serbia and the Western countries could also be the settlement of the crisis in southern Serbia, where ethnic Albanian extremists launched an armed campaign in an effort to destabilise the ethnically mixed region and annex it to neighbouring Kosovo. Through a combination of diplomatic negotiations and resolute yet restrained police actions, in co-operation and coordination with NATO, the crisis was brought under control, and the manner in which it was resolved has been described in Western circles as a model for handling similar problems in the region, for example in Macedonia. At the same time, the co-operation with NATO helped increase the level of confidence between the new authorities and the military and security forces of the FRY, on the one hand, and the Western political circles and the NATO military organisation, on the other. This led to the establishment during the crisis of a practice of holding meetings between the two sides, in southern Serbia as well as NATO headquarters in Brussels, while General Krstic, the commander of the joint security force, has become in a way a figure NATO believes might help initiate reforms in the military and bring the FRY closer to NATO, in particular the Partnership for Peace.

In relations with neighbours, although the situation has improved considerably, progress has not been unambiguous and the future prospects are not inevitably bright. It is indicative, although not surprising, that in relations with neighbours like Croatia, where mutual recognition and the establishment of diplomatic ties took place during the Milosevic and Tudjman eras, albeit to a large extent based on the similarity of thinking of the two authoritarian leaders and their aspirations in regard to Bosnia-Herzegovina, progress has slowed down somewhat, and the diplomatic relations are yet to return to the ambassadorial level they were at before the NATO bombing. The slowdown is a result of the efforts invested by the new authorities on both sides in exhibiting a higher level of commitment to the principles of justice than their predecessors. Croatia sees an obstacle to a normalisation of bilateral relations in Serbia's reluctance to come to terms with the burden of the aggression the former JNA (Yugoslav Army) committed against Croatia, with Milosevic's support, to prosecute

those most responsible for crimes, such as the "Vukovar trio," and exclude from the government figures like General Momcilo Perisic, tried in absentia in Croatia and found guilty of war crimes against the civilian population (in the shelling of the coastal town of Zadar). On their side, the new Yugoslav and Serbian authorities have been showing more concern for the position of the Serb refugees from Croatia, whom Milosevic abandoned after initially inciting their uprising, and are insisting that their return to their homes should be made easier and that they should receive compensation for destroyed property. There is also an outstanding dispute between Yugoslavia and Croatia over the Prevlaka Peninsula on the entrance to the Bay of Kotor (it will probably be taken off the agenda relatively easily after the Serbia-Montenegro relations are resolved), as well as disputes over the border on the river Danube, although these are much more technical than serious territorial problems. The legacy of the war crimes, as well as a certain political rivalry which exists between the two closely-related peoples, and now between two neighbouring states, going back to the times of Austro-Hungary and the pre- and post-World War Two Yugoslavias, will, however, be a factor likely to encumber bilateral relations for some time to come, until generational changes take place or until the two countries are re-united, this time as part of a broader European community. In spite of the above, we can expect in the meantime improvements in economic relations, communication, cultural co-operation etc.; this means that there is little chance of the two countries once again facing each other in confrontation, except in the event of a broader crisis in the region (for example a disintegration of Bosnia-Herzegovina) and a withdrawal of the international community, which isn't very likely to happen.

On the other hand, the political shift in Serbia has resulted in a complete turnabout in relations with Slovenia. Full diplomatic relations at ambassadorial level have been established, and both sides, particularly Slovenia, have expressed an interest in economic co-operation, which, given the complementariness of the two economies and the traditional significance of the Serbian market for Slovenia, forms a good basis for a considerable expansion of economic ties; it would therefore be no surprise at all if in a few years Slovenia were to become one of Serbia's chief economic partners (already the case in Bosnia-Herzegovina, where Slovenia is the biggest foreign investor). The fact that the countries are not territorial neighbours, that the problem of close ethnic relations and that of the "curse of small differences" do not exist, and that the episode of the brief (and some say rigged) June

1991 war has been mainly forgotten (with an appropriate transfer of responsibility from the two sides on to the then federal authorities and the JNA), represent a favourable basis for continuing the development of Serbo-Slovenian relations, already reflected in the fact that a certain level of co-operation exists between the two countries in international forums (the Slovenian foreign minister has offered his country's services in lobbying for Yugoslavia's integration in various international institutions, in the process of approaching the EU); this also has roots in history and is reminiscent of the political alliance between Belgrade and Ljubljana at the time of the Kingdom of Yugoslavia. This does not mean, however, that the relations between the two sides are problem-free - the succession of former Yugoslavia, the strict entry visa regime Slovenia continues to implement and the status of the Serb community there remain unresolved issues, albeit unlikely to have a significant bearing on the positive prospects for the development of relations between Slovenia and Serbia.

The normalisation of relations with Bosnia-Herzegovina and establishment of diplomatic ties at the level of ambassadors is another significant achievement of the new authorities because implied in it is an unambiguous recognition of the integrity of Bosnia-Herzegovina and a limitation of co-operation with the Republika Srpska (RS), the Bosnian Serb entity, to within the confines of the "Dayton framework" (although a number of "grey zone" elements remain, notably military co-operation with the RS army), as well as a cessation of the insistence that Bosnia-Herzegovina withdraw the genocide suit against the FRY it has filed to the International Court of Justice. The other side naturally also showed flexibility, given the fact that Bosnia-Herzegovina was without a doubt a victim of an aggression, supported by the Milosevic regime, and that in contrast to the Croatian authorities it has not insisted on some form of official apology from high Serbian or Yugoslav state officials. There also exists interest in economic co-operation - both countries' economies have shrunk (Serbia's because of the sanctions and NATO's intervention, and Bosnia's on account of a war lasting almost four years) and the weakened economies can seek in bilateral co-operation, which was well developed in the former SFRY, an alternative to the tough competition they would have to face on third markets, for which they are still not ready.

Relations with Macedonia, which were stable in the Milosevic period, mainly on account of a feeling of solidarity in the face of the Albanian separatism, are even closer after the political shift in Serbia, after Macedonia, which had avoided violence for a full decade, was suddenly

rocked by an armed uprising of its ethnic Albanians and felt itself even closer to Belgrade. In that context, a framework for closer military co-operation has been established (the FRY plans to make arms deliveries to Macedonia), and the common interest in suppressing the ethnic Albanian rebellions in southern Serbia and northern Macedonia has made the two countries strategic allies. Similarly to the situation with Bosnia-Herzegovina, Serbia and Macedonia see a need to restore their once thriving economic co-operation and to upgrade it.

Another major although perhaps unexpected step forward is the establishment of diplomatic ties with Albania, in a situation where the Kosovo problem remains open and when ethnic Albanian extremism has spread to southern Serbia. But the level-headed approach by the new authorities in Belgrade and Tirana's formal distancing from the Kosovo Albanians' demands for independence have eased the heavy burden of Albanian-Serb relations and paved the way, with the open support and encouragement of international factors, for a new approach to be tested in which the current as well as inherited problems will be resolved in a broader context of regional co-operation in south-eastern Europe, such as the Pact for Stability and other regional initiatives.

Relations with other neighbouring countries - Hungary, Bulgaria and Romania - which were relatively stable in the Milosevic era, have taken an upswing. Although Hungary, freshly admitted to NATO in 1999, effectively and in any case logistically took part in the NATO intervention against Yugoslavia, while Bulgaria and Romania, traditional Serbian friends but also candidates for NATO membership, offered open support, this did not provoke a break in relations, as the former regime was not interested in isolating the country even further, as Hungary, and to some extent also Bulgaria and Romania, represented access doors towards the world.

However, as Bulgaria and Romania were ruled by pro-Western liberal governments at the moment of Milosevic's downfall, it was welcomed in those countries, and the political closeness with the democratic opposition movement in Belgrade, with mutual interest in promoting economic co-operation and consolidating regional stability, represented a good foundation for the further development of relations. This is especially visible in the case of Hungary, where the aforementioned positive factors are joined by another - the fact that ethnic Hungarians in Vojvodina through their parties and participation in the government represented a political ally to the new authorities in Belgrade, but also because during the anti-Milosevic struggle, the democratic opposition

and the non-governmental sector enjoyed a refuge in Hungary for their numerous actions and initiatives and for co-operation and coordination with foreign partners (one example was the launching in Hungary of the so-called Szeged Process, an association of free opposition-ruled towns during the Milosevic period).

Looking at the big picture, the sector of international co-operation, i.e., the lifting of the isolation, admission to international organisations, restoration of ties with the Western countries and promotion of co-operation with the neighbouring countries represent an impressive achievement, probably the biggest of the new democratic authorities, although it must be stressed once again that those results were achieved with the open support of the international community and its desire not to allow a European country to remain an international outcast.

In the economic sphere - reviving the economy - an important prerequisite for ensuring the stability of the democratic processes - the record of the new authorities is not so impressive, but then their task was much more difficult and its very nature requires long-term activity not able to yield results promptly and directly. Certain very important steps were nevertheless taken, creating a foundation for continuing reforms and rejuvenating an economy devastated by the corruption-riddled and social-rhetoric policies of the former regime, its funding of the war and the effects of the international sanctions. Although it has still not succeeded in reviving industrial production to any major extent, the new government has managed to bring the country back into all important international financial institutions relatively rapidly - the International Monetary Fund, the World Bank, the European Bank for Reconstruction and Development etc. Agreement was reached with the Paris Club of creditor countries to write off almost 67% of the public debt, while talks with the London Club of privately-owned financial institutions on the rescheduling of debts should begin in the near future.

Thanks to strict monetary discipline and a policy of a firm exchange rate of the dinar, hard currency reserves have tripled in a year's time - from under 300 million dollars to about a billion. Inflation has still not been beaten, but has been reduced to an annual level of about 40%, down from the triple-figure rates recorded in the past years. Regarding systemic economic laws, what foreign experts say is a very good privatisation law has been adopted. But the privatisation process is still to come, and it remains to be seen what will be achieved. A relatively

difficult process of rehabilitating the banking sector also lies ahead. If all projects are realised - inevitably attended by social upheaval and austerity - it would be realistic to expect increased interest by foreign investors in the Serbian economy, in fact the only way it could ever catch up with the world economy. Although the economic reforms are moving in a positive direction, no major direct foreign investment interest has been shown, which is probably not just the result of a lack of economic motivation, but also of the unsettled political situation in the country (differences within the ruling coalition, uncertainty surrounding the survival of the federation), as well as the absence the requisite stability in the region on account of the unresolved status of Kosovo and problems with ethnic Albanian separatism in southern Serbia and Macedonia. Nevertheless, if the reforms continue and the situation in the region does not deteriorate too badly, foreign investment should be expected to start flowing in. The inflow has so far taken place only in the form of assistance and donations (about 600 million Euros in a year's time), but this is not the type of help able to kick-start the economy, but only to solve some of the problems existing in the public sector and social welfare.

Finally, positive results have been achieved on the media plane, where a certain level of pluralism did exist almost for the duration of the Milosevic era, albeit with increasing pressure as the years passed, before and after the NATO intervention. This resulted not only in the introduction of a restrictive media law and harsh fines handed down to and closure of some media, but also direct pressures on newspeople, including physical liquidation (the assassination of the editor of the *Dnevni Telegraph* daily). At the same time, the media controlled by the regime (newspapers and the state TV) were the champions of an aggressive and primitive propaganda, and even a language of hatred. Although vestiges of the old manner of thinking have survived in the media (stereotypes about the West's globalist policy, with allusions to "conspiracy theories" and similar fiction), the language of hatred has been expunged, the political lynching vocabulary eliminated and the instrumentalisation of the media for political purposes reduced. But genuine independent journalism has still not taken root, except in the traditionally opposition media, and a sycophantic approach to the new authorities and leading political figures is also visible, especially in those media trying to clear their image after faithfully serving the former regime. The road to truly independent media, which will voice the conscience of society and scrutinise official policy, will be a lengthy one, but it is important that the necessary preconditions for reforms in

the media are being created. One of the key moves will be the adoption of a new information and broadcasting frequency law, expected to take place soon.

Looking for any failures or insufficient achievement by the new authorities in the process of democratisation and reforms, it needs to be stressed that in diagnosing the situation we should take into consideration the fact that only a year's time has passed since they assumed the helm and that the reforms are taking place in a situation where the model of the federal state remains undefined, as well as in what is still an unstable situation in south-eastern Europe. Nevertheless, it is also true that in some important areas expectations have still not been realised.

In regard to the strengthening of the democratic institutions, there is an evident imbalance between the executive branch, which is the engine of reforms (particularly the republican government and those parts of the federal government in charge of foreign policy and foreign economic relations) and the legislative branch, whose importance has been marginalised, which is something of a paradox, as the DOS holds a convincing majority in the Serbian Parliament and a sound majority in the federal one (although compelled to act in the latter in a coalition with the Montenegrin opposition, once one of the pillars of the Milosevic regime). However, owing to the growing rifts in the DOS, but also the desire for increasing the efficiency of the government of the state and management of the economy and implementing the reform measures and laws as fast as possible, there is no genuine debate on important systemic questions in the legislatures and they have instead been turned into voting machines or arenas for petty political squabbling. All major political decisions are adopted after being coordinated within the DOS and then simply passed through parliament; sometimes the legislature is even bypassed and decisions are issued in the form of government decrees.

A serious weakness of the parliamentary system is the fact that under the existing election laws deputies represent their own parties and not voters directly, so that the link between the electorate and the parliament is lost and there exists loyalty to parties and their leaders, rather than to voters. Such a position and treatment of the parliament shows that Serbian society lacks a genuine parliamentary tradition - the creation of such a practice and tradition is also burdened by the fact that even in established democracies parliamentarianism, at least in its traditional form, is the subject of a crisis and re-assessment. But the question of

parliamentarianism is still a serious shortcoming of the young democracy in Serbia without whose resolution a full affirmation of political pluralism and creation of a civic society will not be possible. Although parliamentarianism will probably take firmer hold after several election cycles, certain changes are still needed both in election statutes and the manner of operation of parliament (upgrading the role of parliamentary committees and deputies' initiatives) in order to strengthen parliamentarianism, which is still in the early development stage. But the problem lies in the fact that the very need for speedy economic and other reforms inherently results in strengthening the executive branch and delaying elections for as long as possible - this is a dilemma with which Serbia's democracy will have to come to terms, therefore it will probably, at least in the short term, satisfy itself with the current level of parliamentarianism, or perhaps an only slightly improved situation.

The parliamentarianism crisis is also a reflection of the conflict within the ruling coalition, where the disputes, i.e., conceptual but also tactical differences between eighteen parties very different both in size and outlook, are a problem which will be impossible to overcome in a simple manner. The collapse of a coalition of this kind is certainly inevitable sooner or later, but what provokes concern is not the certainty of the break up but the fact that the leading parties have no clear strategic programme orientations as regards both internal and foreign policies. There are on the Serbian political stage no leftist, rightist and centre parties in the true sense of the word, owing to the non-existence of the corresponding social segments which would be found in a developed civic society - instead, political programmes and objectives are defined by the party leaderships and not through a development of political ideas emanating from the memberships. Parties have no deep roots in the electorate, leading to mass opportunistic influxes and outflows of members, into and out of parties very different in outlook (witness the stampede from Milosevic's Socialist Party to the DSS). But this is another phenomenon not intrinsic to the young Serbian democracy, as it has already been seen in transition countries, and earlier also in some Western countries, where the votes of the left flowed over to the right and vice versa, with the democratic centre remaining relatively isolated and weak. This is of course no consolation or an alibi for shortcomings in building up parliamentarianism, but should be viewed as a warning to the leading pro-reform forces in the country that the build-up of parliamentarianism should be placed alongside the reform targets among the coming political priorities.

The absence of genuine and authentic political ideologies in Serbian society is also reflected in the uncritical attitude seen in a large segment of the government towards the Serbian Orthodox Church. Seeking to attract voter support and attach to their political activities a legitimacy of "concern for the nation and tradition," many political parties are trying to outdo one another in identifying themselves with the values advocated by the Orthodox church, or flirting with the church opportunistically, granting it privileges in the sphere of education, restitution of property etc. Restoring the status of social equality to the Orthodox church is of course not disputable, but doing so in a manner devaluating other religious communities or atheists in the ethnically-mixed Serbia and Yugoslavia could have serious consequences for democratic processes and slow down integration with the West, towards which much, if not the bulk, of the Orthodox hierarchy have a negative or at least suspicious attitude. This is why, although it is at this moment not a major challenge to democratisation, the regulation of the relations between church and state in a manner in line with contemporary practice in Western democracies must be placed among the reform priorities.

Insufficient distancing from nationalism is another factor slowing down democratic reforms. While the former regime took opportunistic advantage of nationalism in its most aggressive form - an ideology of belittling and subjugating other nationalities, and affirming national homogeneity as a supreme ideal - forces within the new authorities, especially those seeking inspiration from the Orthodox traditions, pan-Slavism and anti-leftism, hold that settling accounts with the former regime, branded as neo-communist and anti-national, also implies the affirmation of nationalism in its authentic, "democratic form" - concern for one's nation. Although this "authentic nationalism" appears at first sight to conform to values existing in some Western democracies, albeit characteristic of earlier periods - in the context of the demands of democratic reforms and the affirmation of values characteristic of a Europe working on the unification project, they are nevertheless ideas diverging from the values of modern democracy. Continuing to insist on authentic nationalism could compromise the idea of a civic state and revive the movement for a national state, which could be fatal not only for the future of democracy in Serbia, but also for relations with neighbouring countries.

One consequence of the "national state" concept already seen is the attitude towards the decentralisation issue in Serbia. Reducing the powers of the state, especially its central authorities, as well as

decentralisation and local self-government, are elements of democracy in the Western countries. Limiting the extent of decentralisation and local government to an administrative diffusion of competencies would only further topicalise the problem of relations between regions in Serbia and Belgrade. This is one of the issues where the ruling coalition has not exhibited a sufficient level of agreement, and has in fact shown profound conceptual differences - from championing the idea of a centralised state (modelled after France, but turning a blind eye to the fact that even France is being decentralised), characteristic of the DSS, Nova Srbija and some other parties, through readiness for some reforms, including those aimed at extending the autonomy of Vojvodina (Democratic Party, Civic Alliance), all the way to demands from some parties (from Vojvodina, but also Sandzak) for what can only be described as a federalisation of Serbia. Decentralisation is thus very likely to be one of the major problems of democratic reforms, and one on which the authenticity of parties' commitment to reforms will be tested.

The insufficient reach of the reforms is also visible in the state administration, the judiciary and police, where some results were achieved initially, but then progress ground to a halt. The problem of reforms in these areas is a personnel as well as systemic one.

The new authorities could not avoid reliance on professional staff from the former regime in state institutions, but the problem lies in the fact that this was not done only for the sake of maintaining continuity in the discharge of essential state and public functions and preserving the requisite level of professionalism and know-how, but also because the new authorities, or at least some parts, feel they "owe a debt" to certain state institutions (the police, army, intelligence services), which by transferring their loyalty in the October 2000 events away from the Milosevic regime and towards the democratic movement allowed the latter to assume power fast relatively fast and without bloodshed. But if this deal concluded by the democratic authorities and certain existing structures can be understandable and justified as a necessary evil of the transition stage in the short term, the symbiosis between the new authorities and some elements from the established structures, especially winning them over for alliances in fresh rivalries within the democratic authorities (the reported loyalty to the police to the republican prime minister and the army to the federal president), cannot represent a sound foundation for the new democracy. This makes it obligatory to develop and employ new and uncompromised professional cadres, perhaps also to consider the need to implement a sort of

lustration in the state authorities.

Some reforms have already been initiated - the process of replacing compromised members of the judiciary is in progress. Police reform projects sponsored by the international community (the OSCE and the Council of Europe) will form the basis for a comprehensive reform of the service.

Reforms in the said state services are an important precondition for success in facing what could be the most serious challenge before Serbia's society - organised crime and corruption. Information uncovered about various scandals and irregularities in the past decade proves the existence of strong links between the regime and organised crime - a significant part of the funding of the state came from illegal and criminal activities, from which individuals in the political and state structures made fortunes. In a situation of war and sanctions, all moral inhibitions were set aside and crime was justified by higher interests of the state. Corruption became an integral part of the functioning of the state, economic and public services, from the local level all the way to the top. What is worst, parts of the opposition who took and held power at local level at the time of the former regime also succumbed to this temptation. All this has made corruption and crime an accepted model of behaviour in many segments of society. The democratic shift has not brought about the expected crackdown on the criminal underground, but instead attempts by that segment to buy off the new government, or at least parts of it. In a poverty and crisis-riddled situation where social might is identified with wealth, it was difficult to resist that temptation, and compromises have obviously been made, dulling the edge of the fight against crime. Although an anti-corruption body has been established and some prominent individuals (the National Bank governor, for example) have initiated a campaign against the most privileged profiteers in the 1990s, the battle is in its initial stages and will certainly require the engagement of internal political forces but also international co-operation and support, because the corruption and crime problem flows across national frontiers, especially in south-eastern Europe. It is indicative that the Serbian interior minister recently described organised crime and corruption as a more serious threat to democracy in Serbia than unresolved political questions, such as the status of Kosovo or relations with Montenegro. Finally, in the area of reorganising the armed forces, reforms are also in an embryonic stage. The democratic authorities have accepted the need to reform the military, and the armed forces leadership has

extended verbal support for that idea, but the reforms themselves are still insufficient. Some parts of the new authorities believe radical reforms in the army are a delicate matter and even premature in a situation where the problem in southern Serbia remains pressing, together with the effect of the events across the border in Macedonia, where the status of Kosovo remains an open problem, and where the relations within the federation are still undefined. The lack of will to initiate reforms is partly also the result of the fact that public support for the military is traditionally high and that the army almost always tops the list of institutions enjoying public confidence. Part of the Serbian public also sees reforms in the military as a concession to the West and giving in to its efforts to weaken and "punish" the army which some say "successfully resisted the NATO aggression". All the above, as well as the fact that some people in the authorities are grateful to the military leadership for siding with the people in the October events, does not seem to create a very favourable environment for comprehensive reforms, especially at a moment when in the wake of the September 11 events military force has once again assumed the position of a factor on which Western governments will rely in the struggle against international terrorism, and one which is not as open to public scrutiny as other institutions.

Placement of the Yugoslav Army under democratic control is part of Yugoslavia's obligations proceeding from membership in the OSCE (especially the document entitled "Code of conduct in the political and military aspects of security"), as well as a condition that the country has to fulfil for membership in the Partnership for Peace. The Yugoslav Government and the Ministry of Defence have launched initiatives for joining the programme, while the issue of democratic control is the subject of debates in the military leadership and the defence ministry in which NGOs are also involved. The army has shown readiness for reforms, but it sees control primarily as civilian and not so much as democratic supervision - the position still very much present is one according to which the military is subordinate primarily to the President of the Republic and the Supreme Defence Council and not the parliament, so that parliamentary committees in charge of defence and security still lack adequate insight into military matters such as defence doctrine, national security strategy, reorganisation of the army and the issue of the openness of the budget. The ministry of defence, although headed by a civilian, still lacks in practice a full range of competencies towards the army, as its personnel are mainly armed forces officers. By tradition, the biggest authority in regard to military

matters remains the army General Staff, whose Chief communicates directly with the President of the Republic, so that the powers of the federal government and defence ministry are still much more formal than real. Finally, armed forces reforms and particularly the initiation of the process of joining Partnership for Peace are also affected by the position of the Supreme Defence Council, so that the question cannot be placed on the agenda before the resolution of the problem of the relations in the Yugoslav federation. But in spite of all the obstacles, the process of reforming the military has been started, and the involvement in this issue of the public - parliament, political parties, NGOs - is growing, so that the process of change is bound to pick up pace sooner or later. One of the steps signalling this is an initiative by NGOs for shorter conscript service and equal duration of civilian service which is already in parliamentary procedure, and another initiative by the non-governmental sector for an improvement of the human rights situation in the army and publication of handbooks listing instructions in that context.

Another problem facing the new authorities in the process of democratisation is resolving the issue of responsibility for war crimes. A major step in this process was taken with the handover of former president Slobodan Milosevic to the Hague Tribunal and securing the voluntary surrenders of some other war crimes indictees who took part in JNA operations in the Dubrovnik area in 1991, as well as the recent arrests on Yugoslav territory of two indictees from Bosnia-Herzegovina's Serb entity. But all these moves were accompanied by political disputes inside the ruling coalition, and the impression could be gained that they were made under pressure from the international community and in order to ensure that financial aid from the West was not broken off and that the process of reintegration into international financial and other organisations continued. Consensus has still not been reached in the coalition on the adoption of a law on co-operation with the War Crimes Tribunal, although the law is not a necessary precondition for handing over suspects, as that obligation stems from the very fact that as a member of the United Nations, Yugoslavia has a duty to co-operate with the body.

Insufficient co-operation in the process of bringing war crimes suspects to justice is also shown by the failure to hand over three former JNA officers indicted for war crimes in the siege of Vukovar, as well as insufficient co-operation in efforts to arrest the former RS army commander, General Ratko Mladic, who tribunal sources say often spends time on Serbian territory.

A significant step in coming to terms with the problem of war crimes was a police investigation of several mass graves containing the bodies of ethnic Albanians killed in Kosovo during the NATO intervention believed to have been the victims of Serb police or paramilitary forces. But although the action was hailed in the democratic public as one of the clearest indicators of the readiness to highlight the problem of war crimes, the search for the perpetrators has so far given no results and appears to have lost impetus.

On the moral plane, the war crimes issue was topicalised by the initiative launched by President Kostunica for the formation of a Truth and Reconciliation Commission modelled after similar bodies in South Africa and some other countries which had passed through periods of repression and state terror. But the commission's work is still in a stage of infancy and was from the very beginning burdened by certain dilemmas around its mandate and objectives, so that no forecasts can be made on its possible contribution to raising awareness about responsibility for war crimes in the past decade.

The question of the war legacy therefore clearly remains one of the tasks the new authorities will have to face and one of the conditions for continuing democratisation.

Finally, the process of democratisation in Serbia will depend on events in the region. As has been said, the process of normalising relations with neighbours has already yielded tangible results and should not be expected to burden the democratic reforms further. Any regression of democratisation in the neighbouring countries or a rise in nationalism or extremism there (for example in Bosnia or Croatia) would be likely to encourage similar tendencies in Serbia. But no such developments seem likely at the moment.

The only serious threat to reforms would be a dramatic deterioration of the situation in Kosovo or a radicalisation of the ethnic Albanians' demands for its independence, which would win the support of international factors. But after the parliamentary elections in the province in which the Serb community took part, such a course of events is not likely. Any renewed fighting in Macedonia could also cause fresh instability in the region and a revival of the "Greater Albania" idea, but this is also not likely following the adoption of constitutional changes in Macedonia and the extension of the NATO forces' mandate.

The fundamental obstacles to the development of democracy therefore proceed from internal processes in the country such as the dispute around the future of the federation between Belgrade and Podgorica,

a possible disintegration of the ruling democratic coalition in Serbia, slowdowns in the development of parliamentarianism, insufficient reforms in the police, army and the state administration, failure to come to terms with the war heritage and crimes, failure to suppress organised crime and corruption, etc. Although the resolution of these problems depends primarily on the engagement of domestic political forces, aid from the international community is still necessary, in the form of financial and professional assistance to the democratisation projects, as well as a clear commitment of the international community to retain a constant presence in this part of Europe. Its withdrawal or the erection of a wall between the EU and this region would most certainly be a factor with the direst possible consequences for the future of democracy in Serbia and Yugoslavia, as well as other countries of south-eastern Europe.

Road Map for Reform

The overthrow or peaceful dismantling of authoritarian and totalitarian regimes in Central and Eastern Europe and the holding of free multi-party elections was an essential step on the way to building up democracy, but only the first step. All post-communist countries have either completed or are still passing through the stage of transition from totalitarianism to democracy, and their experiences are quite similar: the priorities which appeared after the overthrow of their former systems were organising genuinely fair and free elections, liberation of the media, reform of the judiciary, upgrading parliamentarianism, reform of the repression apparatus (army and police), and the development of legislation covering human rights protection and promotion. The reform strategy models were also similar, which of course was no surprise as they had been largely taken over or inspired by Western experiences and solutions, or carried out according to the recommendations and standards of organisations like the Council of Europe, the OSCE or the numerous Western foundations and institutions for the promotion and upgrading of democratic values and standards. But we know that regardless of the similar “recipes,” and even formally similar results in the build-up of democratic institutions, the status of democracy in some Central and Eastern European countries and their records in the achievement of democratic standards are not the same (just as the preceding one-party systems were not equally repressive in all the communist countries).

Without a possibility of entering into comparative analyses of the reasons for the different degrees of democracy in the said countries (which are even expressed exactly through various indicators of the democratisation record offered by some organisations, like Freedom House), we wish to point out that the factors which influence this were the historical legacy, the level of economic development, the level of organisation of the democratic forces, especially NGOs, the level of co-operation with the democratic international community, and even some human factors, such as the characteristics and commitments to democracy of the leading political figures in those countries. This leads us towards a simple conclusion - everything does not depend on institutions, but above all else on the level of democratic consciousness of the citizenry, and particularly the commitment to democracy of politically active individuals and groups.

Having all this in mind, and especially the fact that the degrees of democracy in the post-Yugoslav countries are extremely dissimilar, regardless of the fact that several generations had lived in the same country (for seven decades), the inevitable conclusion is that the level of democratic culture in society is of decisive significance for the development of democracy.

In that context, one of the priorities of democratic reforms in Serbia must be increasing the democratic consciousness of the people, a long-term endeavour demanding not just the engagement of political parties and help from international organisations, but also total commitment by all existing democratic forces, especially those in non-governmental organisations, but also educational institutions. Those in charge of international assistance should therefore also bear in mind, as one of the priorities, this aspect of democratisation, which has so far not been the case to a sufficient degree.

However, just as raising democratic awareness is a long-term and lasting goal, so is full democratisation not possible without other and more immediate objectives, which are an imperative of transition towards democracy for the post-communist countries and which should be realised within a short- or medium-term temporal framework. These priorities proceed on the one hand from the demands made by the international community, and on the other from domestic action plans which should be closely tied to those issues in which democratisation has still not yielded the expected results.

Keeping both of these factors in mind, priorities in the coming period must include a reform of the judiciary and legislation dealing with the

protection of human rights. This activity is taking place in close co-operation with the Council of Europe, which will assess the results achieved and in keeping with its findings recommend the admission of Yugoslavia into that oldest European institution, which, if the necessary reforms are realised, should take place in 2002. Within the reform of the legislation, special attention should be focused on the protection of minorities and regulations providing for the freedom of expression and political activity, protection of personal integrity, particularly from abuse by the state authorities, and protection of private property.

Among the priorities must also be a constitutional reform leading to the drafting and adoption of new constitutions for Serbia and the federal state, in accordance with the agreement reached with Montenegro. Special attention needs to be paid in the constitutional reform to decentralisation of the state, striking a balance between the executive, judicial and legislative branches, and the protection of elementary human rights and liberties. Although help from international organisations in the drafting of the new constitutions is not excluded (especially in connection with the experiences in regard to decentralisation of some ethnically-complex countries in Europe, such as Switzerland, Italy or Spain, or the model applied by Finland to the autonomy of its Swedish minority), the biggest contribution in this process must come from domestic non-governmental organisations and experts.

It also needs to be said that constitutional reforms in Serbia could be speeded up without waiting for the resolution of the dispute at federal level. It is also essential that the democratic forces focus their activities on the adoption of constitutional solutions which would be lasting and in conformity with the principles of the civic state, respecting the traditions of autonomy and modern demands of decentralisation.

The affirmation of parliamentarianism and upgrading the efficiency of the parliaments' work are also conditions necessary for the development of democracy. This requires, as one of the priorities, the adoption of a new electoral law which would establish a stronger and more direct link between voters and deputies (who would thus no longer be simply delegates of their parties, but instead true representatives of their electoral districts), more fair and favourable conditions for the political representation of national minorities' parties, as well as a revision of the minimum requirement for parliamentary representation, so as to give smaller parties a better chance to enter parliament. In

the reform of the electoral law, all provisions must be harmonised with the standards applied by the Council of Europe and the OSCE, which means that co-operation with those institutions in its adoption is essential.

Reforms of the military and police are also important priorities in the democratic reform process. As we have already noted, international organisations - the OSCE and Council of Europe – have already provided comprehensive recommendations for reform of the police, and we should expect that important elements of those recommendations are adopted in the final documents. It is important that the police should become, as far as it is possible and to a degree seen in most Western countries, a public service rather than an apparatus of repression. To that end, the cadre renewal of the police must feature education in human rights issues. Some international organisations have already initiated a number of projects in Serbia, in co-operation with the authorities – training programmes for multi-ethnic police in southern Serbia – which could be useful as a model in a broader sense in the overall reform of the police (one of the project's elements is increasing the participation of women in the police force). Also of importance for the status of democracy, especially for an even fuller eradication of the pervasive fears which characterised society in the former regime, is reorganising the intelligence services and their placement under parliamentary control and judicial supervision in the event of abuses.

Continuing reforms of the military, and especially the introduction of full democratic control of the armed forces (by the parliament and government, rather than just the president), is another of the conditions for ensuring full democratisation of Serbia and Yugoslavia. Although the success of the reforms also depends here primarily on the engagement of the authentically democratic forces in the country, especially the maintenance of a consensus within the DOS in favour of such reforms of the military, the desired reconstruction of the armed forces will be far easier to accomplish if the procedure of applying for membership in the Partnership for Peace is initiated and speeded up, as meeting the necessary conditions for admission to that programme will inevitably necessitate a more radical approach to military reforms, including a personnel renewal. It is thus essential that se political consensus in the DOS in favour of Partnership for Peace membership should be transmuted as soon as possible into operational decisions in that context at government and federal parliament levels.

Considerable progress has already been made in the reform of the media, thanks among other things to the contributions provided to the drafting of legislation dealing with the sphere of information by international organisations (OSCE, Council of Europe), but also a certain tradition of free journalism and the engagement of independent media organisations. The activity needs to be finalised as soon as possible, as free media and investigative journalism, still in its infancy here, are essential elements of democracy and a corrective mechanism even for democratically elected governments and parliaments, as shown by extensive experience with the role of the media in the West. Finally, although it sounds unpopular, some thought might be given to carrying out a certain cleansing of the media environment, given the extremely negative role played by some media in the past decade, especially their spread of a language of hatred and glorification of wartime exploits. If this were to be accepted, the lustration should also not be allowed to bypass state institutions, and perhaps even scientific ones. Making compromises with those who lent a note to the past decade's repressive and aggressive policies, and especially opening up new room for those forces, who are now recommending themselves as champions of "authentic" nationalism and even victims of the former regime, would be fatal for the further course of democratisation and the democratic legitimacy of the new authorities.

In order to create a more favourable environment for the continued implementation of democratic reforms, it is necessary to take even more resolute steps on the restructuring of the economy and its revival. This will not be possible without expanding relations with the European Union, so that an agreement on association and stabilisation must remain one of the priority political objectives of the democratic authorities, whose aim should be its conclusion by the end of 2002. Another objective also linked with the revival of the economy and the planned economic reforms should also be membership in the World Trade Organisation (WTO). All available frameworks for co-operation in the economic and other spheres on the regional plane should also be utilised – the Pact for Stability for south-eastern Europe, the Central European Initiative, the SECI and others. Adaptation of the economy to the conditions existing in the EU should also be helped by joining the Central European Free Trade Association (CEFTA), which represented a very positive experience for the most successful transition countries, which are now on the threshold of the EU.

Another essential precondition for successful co-operation with both the EU and other international organisations is fulfilment of the

obligations towards the War Crimes Tribunal. But co-operation with the tribunal at the Hague represents much more - it is one of the basic elements in the process of coming to terms with the war crimes legacy and reconciliation with our neighbours. Full regulation of co-operation with the tribunal - on the basis of a corresponding law, if required by internal political reasons - is therefore one of the main priorities of the authorities in Belgrade in the immediate future. Reconciliation with neighbours, but also the consolidation of the democratic processes within the country, would be helped by the formation of non-governmental and independent truth and reconciliation commissions not just on the national plane but also on the regional one, as well as debates on the war legacy held by historians and legal and other experts from the former Yugoslav states.

Organising joint projects and other forms of co-operation among young people and academic institutions would also help upgrade co-operation in the region, and especially the affirmation of democratic forces in the individual countries. An initiative which should be mentioned in that context is that for a revision of history textbooks in the lands of former Yugoslavia, in a manner similar to that already done in Bosnia-Herzegovina and paying heed to the experiences of some Western countries, such as France and Germany.

The accomplishment of a full democratic transition in Serbia therefore calls for continuous activity on the national plane, attended by full co-operation with neighbours on joint projects, as well as with a corresponding contribution by international organisations. The year that has passed has shown that the role of international organisations (in particular the Council of Europe and the OSCE, but also a number of other international and non-governmental organisations) is an important factor in the democratic reform process. The record does not contain just the expert assistance, although that does have primacy, but also the political message implied in that international assistance – that the international community is co-operative rather than antagonistic, and that it has no intention of forgoing the region. On the other hand, the impression sometimes voiced that the assistance is conditional or limited to imposing finished products must be avoided. Although membership in international organisations does imply that all member-countries accept equal standards, practice has shown that their application nevertheless has to respect certain specificities. In the final instance, the reach of democratic reforms in Serbia will depend mainly on the level of engagement by domestic political forces and their readiness and capacity to respond to the challenges of

democratisation. This also means that alongside the build-up and consolidation of democratic institutions, one of the main objectives should be a permanent strengthening of the democratic consciousness - democratic culture, where the bulk of the burden must lie on internal social and political forces. They will decide whether the democratisation process will be successful and whether they will bring the country within a reasonably short period up to a level now enjoyed by the most successful countries in transition - the status of a realistic candidate for membership in the European Union.

THINK TANKS INVOLVED IN THE PROJECT: BASIC INFORMATION

Albania:

ALBANIAN INSTITUTE FOR INTERNATIONAL STUDIES (AIIS)

ORGANIZATION

Albanian Institute for International Studies was established in September 1997. It is a non-governmental, not for profit, independent institution on international public policy issues. Its research is non-partisan and non-proprietary. The Institute is established based on the respective law of the Civil Code of the Republic of Albania and exercises its activity in the territory of the Republic of Albania in accordance with the present Albanian legislation and international experience.

AIIS is founded under the initiative of an academic group, experienced diplomats, and analysts of international relation, international policies and security issues, well experienced in these fields.

AIM & PRIORITIES

Albanian Institute for International Studies is dedicated to analyses of contemporary issues and their political impact. It is focused on the study of international relations as well as domestic developments in Albania. It aims to address particularly the Euro-Atlantic and Balkans issues on development and prognoses of political, economic, security, ethnic, cultural and religion questions, identification of conflicts, their sources and origins and especially conflict prevention and conflict avoidance. AIIS tends to engage Albanian scholars and attract the qualified international thought and expertise on the issues Albanian society is faced with, in order to help it meet the complex challenges it will face through the path of civil society and market economy. Given the changing nature of security concerns the AIIS has been having an

increasingly domestic focus regarding political and economic developments in Albania.

Publications

- *“Democracy and Security” AIIS, 1999, (in English).*
- *“Dissolution of Yugoslavia and the Case of Kosova”, AIIS, By Enver Hasani, 2000.*
- *“Stability Pact – Just around the Corner” AIIS 2000, (Both Albanian and English).*
- *“Kosova Futures” (ed.), AIIS, forthcoming, 2001.*
- *“Albanians in the Balkans” AIIS, 2001, in Albanian.*
- *“Albania –1914 The six months Kingdom” AIIS 2001, (both English and Albanian).*
- *“Albania - A Weak Democracy, A Weak State”, by B.Kajsiu, A.Bumci, A. Rakipi, Tirana, 2002. (both in English and in Albanian)*
- *“The Politics of Religion in the Reconstruction of Identities - The Albanian Situation” by Albert Doja. AIIS October 2001, (Both in English and Albanian).*
- *“Macedonia and the Albanians: The Confines of Ethnic Politics” by Aldo Bumci. AIIS, December 2001, (Both in English and Albanian).*
- *“Shumica qe na Mund”, by Henri Cili, AIIS, Tirana, 2002, (in Albanian).*

Bulgaria:

CENTRE FOR LIBERAL STRATEGIES (CLS)

CLS is an independent, non-profit think-tank organization. It was formally registered with the Court in 1994 and reached its present state of operation in 1995. Its six full-time researchers combine academic background with direct involvement in the political process, civil sphere activity, and governmental institutions.

CLS's guiding idea is that in the present East-Central European context the organizational form of the *think-tank* is a powerful instrument for:

- Promoting the public debate,
- Exercising influence on the decision-making process,
- Resolving various social and political crises.

Areas of Expertise

CLS provides expertise in the following major areas:

- Politics and polity, Political risk assessment, Political parties.
- Foreign and Integration Policy.
- Constitutional policy and state institutions.
- Election campaigns, Electoral attitudes, Electoral process.
- Sociological surveys and analysis.
- Media and politics.
- Macroeconomic analysis, Economic history.
- Institutional economics.
- Fiscal policy.

CLS develops and implements projects addressing various aspects of the social, economic and political situation in Bulgaria. It organizes workshops, conferences, and seminars with local and foreign experts, politicians and public figures. In recent years, the following major projects have been administered by the *CLS*:

- Agenda for Civil Society “The Blue Bird” (2000-2003).
- The Inflexibility Trap: Frustrated Societies, Weak States and Democracy, 2002.
- Study on the Stability Pact (with East-West Institute), 2001.
- Political and Economic Orientations of the Bulgarians
Ten Years After the Beginning of the Systemic Change, 2000.
- Facing the Future: The Balkans in Year 2010, 1999.
- NATO's Expansion: Illuminating the Grey Zone, 1998).
- Regional Cooperation Prospects in South-East Europe, 1997.
- The City of Sofia. Human Development Report, 1997.
- Political Risk Assessment for Bulgaria, 1997.
- Primary Presidential Elections in 1996.
- Draft for a New Electoral Law, 1995.

INSTITUTE FOR MARKET ECONOMICS (IME)

General information

IME is the first independent economic think tank in Bulgaria (non-profit corporation Reg. #831344929 — March 15th, 1993, 729/XI/VI, p. 169). IME mission is to elaborate and advocate market approaches to the problems Bulgaria is facing in its economic transition.

IME objectives are to provide: independent assessment and analysis of the government's economic policies; a focal point for an exchange of views on market economics and relevant policy issues; and an internationally supported Bulgarian think tank which is widely respected for its expertise. For more information, please, visit IME website and especially 2001 Annual Report (www.ime-bg.org).

In June 2002, IME received 2001 Annual Award of the Government of Bulgaria for it's "its overall contribution to the development of the country".

2001-2002 Priorities

- Competitiveness: Sector Analysis and Case Studies in Wines, Tourism, IT, Finance, Textile & Apparel, Canning and Microeconomic Conditions
- Decentralization, Regional Development, Private Provision of Public Services, Innovative Management Tools for Firms and Public Governance on Local level
- Creation of a ITCC to promote Applied Economics Research, Improvement of Economic Information and Education in Decision Oriented Managerial Approaches
- Regulation Impact Analysis and Legislative Corrections Studies
- Growth and Prosperity in the Balkans: Trade Facilitation, Initiation of Change, Monitoring and Advocacy.

International

- IME is an initiator and co-founder of the **Balkan Network** of public policy institutes to study fragmented capital and finance

markets, quasi-fiscal subsidies and informal labor market, impacts of different crisis situations and embargoes, disseminate ideas for regional cooperation and exchange.

- IME is a co-founder of the **3-E-Net** (Emerging European Economies Network), a joint venture of seventeen policy institutes from eleven countries in the region to advocate market reforms.
- IME is a member of the **Economic Freedom Network**, and co-publisher of Economic Freedom of the World Annual Reports.

IME Advocacy

In a coalition or alone IME contributed to the following:

- Information Disclosure and Anti-Fraud Provisions in Securities Regulations (drafted by IME and US SEC)
- Introduction of the Currency Board (advocacy and public awareness campaign)
- Deposit Guarantee Act (drafted by IME)
- Tax Reforms in 1997 and 1998 (advocacy and cost-benefit comparisons)
- 1998 SMEs Strategy (drafting sections on equal opportunities, competitiveness, fair government practices, low transaction costs)
- Competition Defense Act (three provisions ensuring better implementation)
- Draft Mortgage Bonds Act (drafted by IME)
- 1998 Reduction and Applicability of VAT and Social-welfare Taxation (drafted by IME)
- 2001 Regulation Impact Analysis, Legislative Corrections Studies and Corruption as a Systemic Phenomenon (grafting a Cabinet Decree and Provisions for the New Normative Acts Bill)
- 2002 Drafting Economic Activities Bill (an act to reduce administrative barriers to business).

INSTITUTE FOR REGIONAL AND INTERNATIONAL STUDIES (IRIS)

IRIS is based in Sofia, Bulgaria, is an independent, non-partisan and non-profit think tank. IRIS is dedicated to developing regional strategies for democratic policy making in South Eastern Europe and increasing international understanding of emerging Balkan issues. The mission of the Institute is to establish a link between academic and policy making and to stimulate democratic development by generating policy analyses and recommendations for regional cooperation, security, interethnic relations, conflict management and resolution, economics and foreign policy. IRIS has established successful partnerships with policy institutes throughout the region. Some of the key activities undertaken by the IRIS are focused on fostering dialogue and cooperation by conducting international conferences and roundtables. IRIS works closely with international organizations, the National Assembly of Bulgaria, the Bulgarian Ministry of Foreign Affairs, and the University of Sofia.

MAJOR IRIS PUBLICATIONS

- Bulgaria for NATO 2002, (*in English*).
- Security Challenges and Development of Southern Balkans , 2002, (*in English*).
- Enhancing Public Influence and Exercising Control over the Decision-Making Process, 2002, (*in Bulgarian*).
- How Do We Design an Advocacy Campaign in Bulgaria?, 2002 (*in Bulgarian and in English*).
- International Fact-finding Mission to the Republic of Macedonia, 2001, (*in English*).
- IRIS Quarterly Policy Report – Summer/ Autumn 2000, (*in English*).
- IRIS Quarterly Policy Report - Spring 2000, (*in English*).
- Security and Reconstruction of Southeastern Europe: A Policy Outlook from the Region (2000), (*in English*).
- Topography of Power in Bulgaria (2000), (*in Bulgarian*).
- Perspectives on the Development of the Relations between

Bulgaria and Macedonia (2000), (*in Bulgarian and Macedonian*).

- Geopolitical Systems (1999), (*in Bulgarian*).
- Regional Infrastructure Projects in Southeastern Europe (1999), (*in English*).

Kosovo:

KOSOVA ACTION FOR CIVIC INITIATIVES (KACI)

KACI-Kosova Action for Civic Initiatives, founded in May 1998, is a research group and think-tank based in Prishtina, Kosova. Its primary goal is to help in the understanding of Kosovar politics and international developments in regards to the question of Kosova, through research and analysis. KACI is also an action council for civic initiatives, suggesting ideas for the development of Kosovar civil society and helping civic initiatives and NGOs get in touch with their counterparts in the world.

After the entrance of NATO forces in Kosova and with the adoption of Resolution 1244 in June 1999, a complex mixture of local and international factors is governing Kosova. KACI, in a watchdog role, is committed to observing and analysing this governance and informing the citizens of the political developments in Kosova and the implications these may have on their lives, on Kosova and the region in general.

Almost every aspect of KACI's activities results in well-researched, informative, useful and agenda-setting publications. Our numerous continuing publications have resulted in a library of over ten reference publications, which is one of the most extensive within the Kosovar NGO sector.

KACI's quarterly magazine, *Kosova and Balkan Observer* is the journal that addresses general and specific, recent and more long-term issues that affect Kosova and the Balkans in general. The issues discussed range from local to regional; from political to social, cultural and economic. It is the regional reference point and virtual discussion forum, with contributions from international and local stakeholders and observers of the Kosovar and the wider Balkan development process.

KACI is in close cooperation with NGOs from the Balkans and countries in transition in general. An exchange of experience and ideas is regular amongst KACI and NGOs from Montenegro, Serbia, Croatia, Macedonia and Bosnia. KACI is also part of the IDEE Centers for Pluralism network and SEEPIN. It has taken part in trainings and exchanges with countries of Central Eastern Europe and the CIS.

In initiating, developing, implementing and monitoring its activities, KACI is always committed to developing local capacity for its projects. By creating and supporting a solid local foundation for civic initiatives and activity, KACI aims at ensuring that this activity continues even when

international support and attention is minimal. Thus KACI contributes towards a long-term, durable and self-sustainable civil society, which is committed to entrenching democratic and civil society values permanently within Kosovar society.

Macedonia:

FORUM - CENTRE FOR STRATEGIC RESEARCH AND DOCUMENTATION (CSR D)

Forum-CSR D is non-governmental, non-partisan and non-profit think-tank from Skopje, Republic of Macedonia.

The Center works on the issues of security, economy and democratization in two levels:

Within Macedonia:

- *promotion and building the civic society in Macedonia;*
- *strengthening of democratic processes in Macedonia;*
- *strengthening of inter-ethnic dialogue in Macedonia;*
- *support of activities towards reaching the standards for Macedonian integration in Euro - Atlantic institutions.*

Out of Macedonia:

- *further development of the influence of the civic sector and countries from South Eastern Europe;*
- *maintaining closer cooperation among the countries from the region of South - Eastern Europe;*
- *strengthening of the processes of democratization in the countries from South Eastern Europe;*
- *support of activities towards reaching the standards for integration of the region in Euro - Atlantic institutions.*

Montenegro/FRY:

CENTRE FOR DEMOCRACY AND HUMAN RIGHTS (CEDEM)

Center for Democracy and Human Rights is founded in July 1997 as a non-profit association of citizens (NGO). Main goals of CEDEM from the very beginning have been the following: to advance and spread conscience on importance of a proper and successful democratic transition; to research, analyze and monitor the process of a democratic transition; to influence by its activities, as much as possible, transition process in Montenegro; to contribute in strengthening of civil society and democratization process as a whole; to contribute in education in human rights area and in protection of basic human rights.

CEDEM acts mostly as a think-tank group. Its main activities are the following: a) conducting regular quarterly *public opinion polls* on main political currents in Montenegro and publishing results and comments; b) publishing *quarterlies on transition process* in Montenegro and annual reports on human rights; c) organizing *seminars and other educative forms* for Montenegrin legal practitioners in the human rights area; d) acting in order *to improve legal status and surrounding of NGOs* in the Republic (CEDEM was an author of the first NGO law in Montenegro); e) making different types of *analyses and policy papers* in the field of democracy and human rights in Montenegro; f) coordinating the biggest NGO network in Montenegro "Akcija", founded in the beginning of 2002, which main goal is to campaign for political, legal and economic reforms in the country.

CEDEM has developed very broad international communication and cooperation. It is a member of the global democracy network "World Movement for Democracy" (WMD) from its foundation (1999 conference in New Delhi, India); member of the network of East European NGOs "Centres for Pluralism" (CfP) and a member of regional human rights NGO association "Balkan Human Rights Network" (BHRN). CEDEM also successfully cooperates in the network of regional think-tanks (CIS-Albania, CLS-Bulgaria, KACI-Kosovo, Forum-Macedonia, CEDEM-Montenegro, BCHR-Serbia).

Members and associates of CEDEM are mostly: scholars, academics, legal advisers, attorneys, political analysts, journalists, and economists. Director of CEDEM is: Srdjan Darmanovic, assistant professor in Law School, Podgorica, Montenegro.

